

Exhibit H - Deposition of Ofc. James Bertuccini

James Bertuccini

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
3) ss
4 COUNTY OF CLARK)

5 I, Tracy A. Manning, a duly certified court
6 reporter licensed in and for the State of Nevada, do
hereby certify:

7 That I reported the taking of the deposition of
8 the witness, James Bertuccini, at the time and place
aforesaid;

9 That prior to being examined, the witness was
10 by me duly sworn to testify to the truth, the whole
truth, and nothing but the truth;

11 That I thereafter transcribed my shorthand
12 notes into typewriting and that the typewritten
13 transcript of said deposition is a complete, true
and accurate record of testimony provided by the
witness at said time to the best of my ability.

14 I further certify (1) that I am not a relative,
15 employee or independent contractor of counsel of any
16 of the parties; nor a relative, employee or
17 independent contractor of the parties involved in
18 said action; nor a person financially interested in
19 the action; nor do I have any other relationship
with any of the parties or with counsel of any of
the parties involved in the action that may
reasonably cause my impartiality to be questioned;
and (2) that transcript review pursuant to
NRCP 30(e) was waived.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 in the County of Clark, State of Nevada, this 18th
day of July 2024.

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24

25

Tracy A Manning

Tracy A. Manning, CCR 785

James Bertuccini

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 LATIA ALEXANDER, individually as heir)
of ISIAIAH T. WILLIAMS and in her)
5 capacity as Special Administrator of)
the Estate of ISIAIAH T. WILLIAMS,)
6)

Plaintiff,

7 v.
8

9 LAS VEGAS METROPOLITAN POLICE)
DEPARTMENT, a political subdivision)
of the State of Nevada; KERRY KUBLA,)
10 in his individual capacity; BRICE)
CLEMENTS, in his individual capacity;))
11 ALEX GONZALES, in his individual)
capacity; RUSSELL BACKMAN, in his)
12 individual capacity; JAMES)
ROTHENBURG, in his individual)
13 capacity; JAMES BERTUCCINI, in his)
individual capacity; DOES I-XX,)
14 inclusive,)

15 Defendants.
16)

17 VIDEOTAPED DEPOSITION OF JAMES BERTUCCINI

18 Taken on Friday, July 12, 2024

19 At 9:04 a.m.

20 At 400 South Seventh Street

21 Las Vegas, Nevada
22
23

24 Job No. 56849, Firm No. 116F

25 Reported by: Tracy A. Manning, CCR 785

James Bertuccini

Latia Alexander, et al. v. Las Vegas Metropolitan Police Department, et al.

<p>1 APPEARANCES:</p> <p>2</p> <p>3 For the Plaintiff:</p> <p>4 BREEDEN & ASSOCIATES, PLLC</p> <p>5 BY: ADAM J. BREEDEN, ESQ.</p> <p>6 7432 West Sahara Avenue</p> <p>7 Suite 101</p> <p>8 Las Vegas, Nevada 89117</p> <p>9 Adam@Breedennandassociates.com</p> <p>10 (702) 819-7770</p> <p>11</p> <p>12 For the Defendants:</p> <p>13 MARQUIS AURBACH</p> <p>14 BY: CRAIG R. ANDERSON, ESQ.</p> <p>15 10001 Park Run Drive</p> <p>16 Las Vegas, Nevada 89145</p> <p>17 canderson@maclaw.com</p> <p>18 (702) 382-0711</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>The Videographer: Dawn Beck</p>	<p>2</p> <p>1 JULY 12, 2024</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. This</p> <p>4 begins digital media No. 1 in the deposition of</p> <p>5 James Bertuccini. Today's date is July 12th, 2024.</p> <p>6 The time on the video monitor is 9:04 a.m. We are</p> <p>7 located at 400 South Seventh Street in Las Vegas,</p> <p>8 Nevada.</p> <p>9 This case is entitled Latia Alexander, et</p> <p>10 al. versus Las Vegas Metropolitan Police Department,</p> <p>11 et al. The case number is 2:24-cv-00074-APG-NJK.</p> <p>12 It's being held in United States District Court,</p> <p>13 District of Nevada.</p> <p>14 My name is Dawn Beck, legal videographer.</p> <p>15 The court reporter is Tracy Manning. We represent</p> <p>16 Lexitas. Will counsel please state your appearance</p> <p>17 for the record and who you represent.</p> <p>18 MR. BREEDEN: This is attorney Adam</p> <p>19 Breeden for the plaintiffs.</p> <p>20 MR. ANDERSON: Craig Anderson for the</p> <p>21 defendants.</p> <p>22 THE VIDEOGRAPHER: Thank you. Would the</p> <p>23 court reporter please swear in the witness.</p> <p>24 ...</p> <p>25 ...</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">I N D E X</p> <p>WITNESS PAGE</p> <p>JAMES BERTUCCINI</p> <p>Examination by Mr. Breeden 5</p> <p style="text-align: center;">E X H I B I T S</p> <p>NUMBER PAGE</p> <p>1 Photocopies of equipment, Bates 34</p> <p>stamped WILLIAMS 000793 -</p> <p>WILLIAMS 000797, 5 pages</p> <p>2 Defense Technology equipment, 1 page 40</p> <p>3 Excerpt of State of Nevada, 81</p> <p>Commission on Peace Officer Standards</p> <p>and Training, Performance Objective</p> <p>Reference Material, pages 12 and 13</p> <p>of 58, 2 pages</p> <p>4 Excerpt, photocopy of SWAT briefing, 94</p> <p>Bates stamped LVMPD 004377, 1 page,</p> <p>Confidential</p> <p>5 Excerpt from Las Vegas Metropolitan 150</p> <p>Police Department, Special Weapons</p> <p>and Tactics, Bates stamped</p> <p>LVMPD 001508, 1 page</p>	<p>5</p> <p>1 JAMES BERTUCCINI</p> <p>2 having been duly sworn,</p> <p>3 was examined and testified as follows:</p> <p>4</p> <p>5 EXAMINATION</p> <p>6 BY MR. BREEDEN:</p> <p>7 Q. Morning, sir. Can you please state your</p> <p>8 name for the court reporter, and go ahead and spell</p> <p>9 your full names as well?</p> <p>10 A. It's James Bertuccini. That's J-a-m-e-s.</p> <p>11 Bertuccini is B-e-r-t-u-c-c-i-n-i.</p> <p>12 Q. Officer Bertuccini, on January 10th of</p> <p>13 2022, were you a police officer assigned to the SWAT</p> <p>14 unit for Las Vegas Metropolitan Police Department?</p> <p>15 A. Yes, sir.</p> <p>16 Q. In the performance of your job as a police</p> <p>17 officer, do you agree with me that you have a duty</p> <p>18 to conduct yourself such that you do not violate the</p> <p>19 civil rights of members of the public?</p> <p>20 A. Yes, sir.</p> <p>21 Q. You also agree with me that if you see</p> <p>22 other officers violating the civil rights of the</p> <p>23 public, you actually have a duty to intervene and</p> <p>24 stop that officer?</p> <p>25 A. Yes, sir.</p>

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<p>6</p> <p>1 Q. Back up a little bit.</p> <p>2 My name is Adam Breeden. I'm the attorney</p> <p>3 for a woman, Latia Alexander, who has filed a</p> <p>4 lawsuit against you, several other officers, and the</p> <p>5 Las Vegas Metropolitan Police Department, arising</p> <p>6 out of a SWAT action that resulted in the death of</p> <p>7 her son, Isaiah Williams, on January 10th of 2022.</p> <p>8 Do you understand the reason why you're</p> <p>9 here this morning is to give your deposition</p> <p>10 testimony in that case?</p> <p>11 A. Yes, sir, I do.</p> <p>12 Q. Have you ever given deposition testimony</p> <p>13 before?</p> <p>14 A. Yes, sir.</p> <p>15 Q. How many occasions?</p> <p>16 A. One time.</p> <p>17 Q. I'm going to ask you a little bit about</p> <p>18 that later in this deposition. I do want to go over</p> <p>19 the rules or admonitions for the depositions, for</p> <p>20 you at this time, even though you've been through</p> <p>21 the process before.</p> <p>22 The oath that was administered to you by</p> <p>23 the court reporter to your left, my right, is the</p> <p>24 same oath that you would take in a court of law.</p> <p>25 And it obligates you to tell the truth under penalty</p>	<p>8</p> <p>1 and I'll be happy to do that for you.</p> <p>2 During today's deposition, you always need</p> <p>3 to give an audible answer out loud or verbal, such</p> <p>4 as a yes or a no. You've done an excellent job so</p> <p>5 far. But please do not shake your head up and down</p> <p>6 or side to side or use slang terms, such as uh-huh</p> <p>7 or uh-uh if you mean yes or no. If you do something</p> <p>8 like that, I'll probably ask you to clarify what you</p> <p>9 meant by your response, just so it's clear when</p> <p>10 later we go back and look at the transcript what</p> <p>11 your response was.</p> <p>12 Also, as a general rule during today's</p> <p>13 deposition, and again, you've done an excellent job</p> <p>14 so far, please try not to speak at the same time</p> <p>15 anyone else is speaking. There are several reasons</p> <p>16 I ask you to do that, but one is because it is</p> <p>17 difficult for the court reporter to accurately take</p> <p>18 down what two people are saying at the same time.</p> <p>19 Can you do all that for me?</p> <p>20 A. Absolutely, yes, sir.</p> <p>21 Q. During today's deposition, one of the</p> <p>22 attorneys may object to a question that's asked. I</p> <p>23 want to explain to you how objections work during a</p> <p>24 deposition, because they work a little differently</p> <p>25 than what people may have seen in a courtroom or on</p>
<p>7</p> <p>1 of perjury today; do you understand that?</p> <p>2 A. Yes, sir, I do.</p> <p>3 Q. Your deposition is also being videotaped</p> <p>4 today. And your testimony may be played or read for</p> <p>5 the jury at trial; do you understand that?</p> <p>6 A. Yes, sir.</p> <p>7 Q. The court reporter is taking down</p> <p>8 everything that's said today, all of my questions</p> <p>9 and your answers, and any other comments that are</p> <p>10 made. And afterward, she'll put everything in a</p> <p>11 booklet or a transcript form. After the deposition,</p> <p>12 you have an opportunity to review the transcript and</p> <p>13 make changes to your testimony if you wish.</p> <p>14 However, I would advise you in advance</p> <p>15 that if you make a substantive change to your</p> <p>16 testimony, as opposed to just correcting a</p> <p>17 grammatical error or a typographical error, I would</p> <p>18 still have the right to comment on the fact that you</p> <p>19 said one thing here today during your deposition,</p> <p>20 and then later you changed it; do you understand</p> <p>21 that?</p> <p>22 A. Yes, sir, I do.</p> <p>23 Q. It is important for us to get a good</p> <p>24 record today. If you don't understand any of my</p> <p>25 questions, please ask me to repeat or rephrase them</p>	<p>9</p> <p>1 TV.</p> <p>2 During a deposition, you can see we don't</p> <p>3 have a judge here to immediately rule on objections.</p> <p>4 Therefore, if I ask a question that your attorney</p> <p>5 thinks an objection needs to be stated for, he will</p> <p>6 state the objection and the basis for the objection,</p> <p>7 and then we'll still all look to you to give a</p> <p>8 response. And then later, if the judge needs to</p> <p>9 rule on whether your response is admissible or not</p> <p>10 in court, the judge can do so. I explain that,</p> <p>11 because it confuses many people during the</p> <p>12 deposition process. They hear an objection, and</p> <p>13 they believe, oh, I'm not supposed to respond</p> <p>14 because my attorney has objected. But generally,</p> <p>15 the opposite is true.</p> <p>16 If I ask you some question that is truly</p> <p>17 protected by a privilege and your attorney does not</p> <p>18 want you to respond, I'm sure he will make that very</p> <p>19 clear to you on the record, and the basis for him</p> <p>20 asserting that privilege; do you understand that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Do you have any questions for me as to how</p> <p>23 we're going to proceed today?</p> <p>24 A. No, sir.</p> <p>25 Q. Have you consumed any alcoholic beverages</p>

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<p>10</p> <p>1 in the last 24 hours?</p> <p>2 A. No, sir.</p> <p>3 Q. I don't need to know a lot of your medical</p> <p>4 history, and I'm not trying to pry into your</p> <p>5 personal medical history, but I do want to know if</p> <p>6 you have taken any sort of drug, including</p> <p>7 prescription medications, in the last 48 hours?</p> <p>8 A. Prescription medication, I've taken</p> <p>9 Gabapentin for nerve pain.</p> <p>10 Q. Okay. And have you been on that</p> <p>11 prescription medication for six months or longer?</p> <p>12 A. No.</p> <p>13 Q. Okay. How long have you been on that</p> <p>14 medication?</p> <p>15 A. Last four days.</p> <p>16 Q. And do you believe that medication has</p> <p>17 affected your memory or your ability to testify in</p> <p>18 any manner?</p> <p>19 A. No, sir. It's not a controlled substance.</p> <p>20 Q. Do you have any medical condition, an</p> <p>21 extreme example would be dementia or Alzheimer's,</p> <p>22 that you believe may affect your memory or your</p> <p>23 ability to accurately testify here today?</p> <p>24 A. No, sir.</p> <p>25 Q. How would you rate your memory at this</p>	<p>12</p> <p>1 draft report?</p> <p>2 A. I believe it was the CIRT final review.</p> <p>3 Q. Okay. And there's only been one other</p> <p>4 deposition taken in this case. That was of Officer</p> <p>5 Gonzales earlier this week. You didn't sit through</p> <p>6 that deposition, did you?</p> <p>7 A. No, sir.</p> <p>8 Q. Did you discuss with Officer Gonzales what</p> <p>9 he testified to on Monday?</p> <p>10 A. No, sir, I have not.</p> <p>11 Q. Have you reviewed a transcript of that</p> <p>12 proceeding?</p> <p>13 A. I didn't read it, no, sir.</p> <p>14 Q. Again, before we get into your background</p> <p>15 here, just to tell you, the deposition will likely</p> <p>16 last three to four hours. If you need to take a</p> <p>17 break, just let me know. I always like to admonish</p> <p>18 witnesses, though, because this is a bit of an</p> <p>19 unusual rule. They treat this deposition proceeding</p> <p>20 as if you were actually testifying in court. So if</p> <p>21 we take a break, exchanges that you have with your</p> <p>22 attorney are not protected by attorney-client</p> <p>23 privilege. So you can't discuss anything</p> <p>24 substantive or anything that you would not want</p> <p>25 disclosed to me during breaks; do you understand</p>
<p>11</p> <p>1 time of the events of January 10th of 2022? Do you</p> <p>2 believe you have a good memory?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What, if anything, have you done</p> <p>5 specifically to prepare for today's deposition?</p> <p>6 A. I sat down with my attorney, sir.</p> <p>7 Q. Okay. When did you sit down with your</p> <p>8 attorney?</p> <p>9 A. Yesterday.</p> <p>10 Q. How long did you meet with your attorney?</p> <p>11 A. Maybe an hour, sir.</p> <p>12 Q. Did you review any documents?</p> <p>13 A. Yes, sir.</p> <p>14 Q. What documents did you review?</p> <p>15 A. My statements, my CIRT and FIT statements.</p> <p>16 Q. Any other documents you reviewed?</p> <p>17 A. No, sir.</p> <p>18 Q. Other than your attorney, did you meet</p> <p>19 with any other person or speak to any other person,</p> <p>20 for example, some of the other officers that have</p> <p>21 been sued about the fact that you're going to</p> <p>22 testify and what you're going to testify to?</p> <p>23 A. To be honest, no, sir, I have not.</p> <p>24 Q. Have you reviewed any expert report that's</p> <p>25 been prepared for this litigation, even if it's a</p>	<p>13</p> <p>1 that?</p> <p>2 A. Yes, sir, I understand.</p> <p>3 Q. All right. How old are you?</p> <p>4 A. I'm 45, sir.</p> <p>5 Q. And what city and state were you born in?</p> <p>6 A. Las Vegas, Nevada.</p> <p>7 Q. Have you ever lived outside of Las Vegas?</p> <p>8 A. No, sir. Outside of going to college.</p> <p>9 Q. We'll talk about that in a minute. But</p> <p>10 your residence has always been Las Vegas, Nevada?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Have you ever been convicted of a crime?</p> <p>13 A. No, sir.</p> <p>14 Q. Let's talk about your education. What</p> <p>15 year did you graduate high school?</p> <p>16 A. 1997.</p> <p>17 Q. And from what high school, city and state?</p> <p>18 A. Cheyenne High School; Las Vegas, Nevada.</p> <p>19 Q. What education past high school have you</p> <p>20 had?</p> <p>21 A. I have an Associate's Degree.</p> <p>22 Q. From what institution?</p> <p>23 A. CSN.</p> <p>24 Q. Is that in Clark County, Nevada?</p> <p>25 A. Yes, sir.</p>

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<p>14</p> <p>1 Q. And when did you obtain that Associate's 2 Degree?</p> <p>3 A. 2000, sir.</p> <p>4 Q. Did you have a particular major or area of 5 study?</p> <p>6 A. Liberal Arts and Criminal Justice.</p> <p>7 Q. After graduating from CSN, did you have 8 any other formal education?</p> <p>9 A. Yes, sir. I went to the University of New 10 Haven.</p> <p>11 Q. Is that in New Haven, Connecticut?</p> <p>12 A. Yes, sir.</p> <p>13 Q. That's quite a shift for somebody who's 14 born and raised in Las Vegas. Why did you choose to 15 go to the University of New Haven?</p> <p>16 A. I got offered a baseball scholarship, sir.</p> <p>17 Q. And so what years did you attend the 18 University of New Haven?</p> <p>19 A. I believe it was 2000 to 2002.</p> <p>20 Q. And did you graduate or receive a degree?</p> <p>21 A. No, sir, I did not.</p> <p>22 Q. Did you have a particular major or area of 23 study, other than the practice of baseball?</p> <p>24 A. Criminal justice, sir.</p> <p>25 Q. And what was the reason you did not</p>	<p>16</p> <p>1 or training in the legal field? For example, as a 2 paralegal, legal assistant, or attorney?</p> <p>3 A. No, sir.</p> <p>4 Q. And do you have any education or 5 background pertaining to the medical field?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay. Are you required to be, like, 8 emergency medicine certified?</p> <p>9 A. No, sir. Not in SWAT, no, sir.</p> <p>10 Q. Okay. So in 2004 you joined Metro?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And why did you decide to go into law 13 enforcement with Metro?</p> <p>14 A. I've always wanted to be a police officer. 15 From the day -- the day that me and my dad sat down 16 and watched the old cop shows in Vegas, that's what 17 I wanted to do. And what -- I've always wanted to 18 be in SWAT.</p> <p>19 Q. Okay.</p> <p>20 A. That was what -- it was a childhood dream.</p> <p>21 Q. You wanted to protect the public?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Wanted to do good for the community?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Did you do anything for a living before</p>
<p>15</p> <p>1 receive a degree?</p> <p>2 A. I left early. They didn't renew my 3 scholarship, fell below GPA. And I came home to 4 finish -- try my best to finish. And then I ended 5 up testing with Metro.</p> <p>6 Q. Okay. So when you returned home, and I'm 7 going to assume that's in the 2002 time frame?</p> <p>8 A. Yeah, 2002. And then -- yeah, right 9 around there. Because I got hired on with Metro in 10 2004.</p> <p>11 Q. Did you enroll -- before you were hired on 12 with Metro, did you enroll in any other university 13 or college to try to complete your degree?</p> <p>14 A. UNLV.</p> <p>15 Q. And what years did you attend UNLV?</p> <p>16 A. '03, '04.</p> <p>17 Q. And did you graduate?</p> <p>18 A. No.</p> <p>19 Q. Why did you not graduate?</p> <p>20 A. I was three credits short and I got hired 21 on with Metro and I just focused on that. You'd 22 think I'd go with three credits short.</p> <p>23 Q. It's never too late.</p> <p>24 A. Never too late, yes, sir.</p> <p>25 Q. Do you have any sort of legal background</p>	<p>17</p> <p>1 joining Metro?</p> <p>2 A. Yeah. I was a bartender.</p> <p>3 Q. For how many years?</p> <p>4 A. I would say two years before I got hired 5 on.</p> <p>6 Q. Where were you a bartender?</p> <p>7 A. It was at -- it's now called Mangos. It 8 was at the time called Boomerang's Bar and Club off 9 of Vegas and Rainbow.</p> <p>10 Q. And did you voluntarily leave there to 11 join Metro?</p> <p>12 A. Yeah. I gave my two weeks when I got 13 hired on with Metro.</p> <p>14 Q. Okay. And so have you been continuously 15 employed with Las Vegas Metro Police Department 16 since 2004?</p> <p>17 A. Yes, sir, I have.</p> <p>18 Q. And what's your job title or position?</p> <p>19 A. I'm obviously with the SWAT section. I am 20 the Assistant Team Leader to my Team Leader. And 21 I'm also an entryman and explosive breacher.</p> <p>22 Q. So let's talk a little bit about the 23 structure of SWAT. There's different SWAT teams 24 within Metro; is that correct?</p> <p>25 A. There's two of us, two teams.</p>

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<p>18</p> <p>1 Q. Okay. And how are the teams designated?</p> <p>2 A. Basically, they're broken up so we have</p> <p>3 seven day a week coverage. My team, for example, we</p> <p>4 cover Wednesday to Saturday. We are -- our shifts</p> <p>5 are from 2:00 p.m. to midnight. The other team</p> <p>6 takes over at basically midnight on Saturday, and</p> <p>7 they work Sunday to Wednesday. Our common day</p> <p>8 together is on Wednesday. So we have dual team</p> <p>9 training days. The teams' makeup is basically, we</p> <p>10 have two sergeants over each team, two ATLs over</p> <p>11 each time, and I believe right now we're at between</p> <p>12 13 and 14 operators per team.</p> <p>13 Q. Okay. And when you use the term "ATL",</p> <p>14 that's stands for Assistant Team Leader?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And I think -- you did a good job of</p> <p>17 answering my question, and I appreciate it. But</p> <p>18 what I was getting at was something a little</p> <p>19 differently.</p> <p>20 The two different SWAT teams, they're</p> <p>21 designated by colors; is that right?</p> <p>22 A. Red and blue.</p> <p>23 Q. Is there a gold? Has there ever been a</p> <p>24 gold?</p> <p>25 A. No. So right now -- so when this incident</p>	<p>20</p> <p>1 Q. And was Sergeant Bonkavich on site for the</p> <p>2 January 10th, 2022 operation?</p> <p>3 A. No, sir. He was on his RDO, as I was. I</p> <p>4 came in as -- to assist the team.</p> <p>5 Q. Okay. And when I refer to, you know, what</p> <p>6 happened there at January 10, 2022, do you use the</p> <p>7 term SWAT operation? SWAT raid? SWAT mission?</p> <p>8 What term do you use?</p> <p>9 A. It was a SWAT search warrant. It was just</p> <p>10 a search warrant.</p> <p>11 Q. Okay. Who is your -- the current</p> <p>12 lieutenant over you?</p> <p>13 A. Right now is Lieutenant Adrian Beas.</p> <p>14 Q. Can you spell that last name?</p> <p>15 A. B-e-a-s.</p> <p>16 Q. And who's the current sergeant over you?</p> <p>17 A. Sergeant Cody Thompson.</p> <p>18 Q. Now, again, on January 10 of 2022, did you</p> <p>19 hold the position of Assistant Team Leader for your</p> <p>20 team?</p> <p>21 A. No, I did not.</p> <p>22 Q. Okay. When did you obtain that title or</p> <p>23 position?</p> <p>24 A. I've been the Assistant Team Leader for my</p> <p>25 team for the last nine years.</p>
<p>19</p> <p>1 happened, our colors were different. We are now red</p> <p>2 and blue. Back then, I believe they were gold and</p> <p>3 silver. If I can recall correctly.</p> <p>4 Q. And at that time -- pardon me -- at that</p> <p>5 time, were you on the gold team?</p> <p>6 A. No, I -- so they -- whatever the primary</p> <p>7 team was, I was on the opposite team. So if gold is</p> <p>8 primary, I was on silver.</p> <p>9 Q. Okay. And you just can't remember if you</p> <p>10 were on gold or silver?</p> <p>11 A. I don't. I don't remember what the</p> <p>12 color -- how we changed it up back then. I couldn't</p> <p>13 tell you.</p> <p>14 Q. Okay. And let's talk specifically about</p> <p>15 this time here, January of 2022. Who was your SWAT</p> <p>16 leader?</p> <p>17 A. My SWAT command- -- my SWAT commander or</p> <p>18 sergeant?</p> <p>19 Q. Well, why don't you give me both and</p> <p>20 explain to me how those are different.</p> <p>21 A. The lieutenant, who was the commander, was</p> <p>22 Lieutenant Melanie O'Daniel. My direct supervisor</p> <p>23 at the time was Sergeant James Bonkavich.</p> <p>24 Q. Can you spell that for me?</p> <p>25 A. Bonkavich is B-o-n-k-a-v-i-c-h.</p>	<p>21</p> <p>1 Q. Okay. So I guess maybe I misunderstood</p> <p>2 your -- your answer a little bit.</p> <p>3 On January 10, 2022, you were an Assistant</p> <p>4 Team Leader, but for your team, not the team</p> <p>5 executing the search warrant.</p> <p>6 A. Yes. I was not the ATL for that</p> <p>7 operation, that search warrant.</p> <p>8 Q. Okay. Who was the ATL?</p> <p>9 A. Jake Werner.</p> <p>10 Q. Who was the sergeant in charge?</p> <p>11 A. There was two of them. There was Russ</p> <p>12 Backman and Garth Finley.</p> <p>13 Q. And who was the lieutenant in charge?</p> <p>14 A. Melanie O'Daniel.</p> <p>15 Q. All right. Have you had any other</p> <p>16 employment, side jobs, or side work during your</p> <p>17 employment with Metro?</p> <p>18 A. No, sir.</p> <p>19 Q. I thought I saw in your personnel file</p> <p>20 that you made an application to do some</p> <p>21 self-employment training and consultation.</p> <p>22 A. Yeah, that -- here and there. It's</p> <p>23 nothing. Yeah. I'm trying.</p> <p>24 Q. Do you have a name for that business?</p> <p>25 A. We're trying Zebra Operation Group.</p>

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1 Q. Okay. When is the last time you did any
2 work for that company?
3 A. We haven't yet.
4 Q. Okay. So this is just something that's
5 anticipated --
6 A. I'm hoping to get going, yes.
7 Q. Okay. So if you hope to get going, what
8 sort of training or work would you be doing?
9 A. Just SWAT consultations, active shooter
10 training, hostage rescue training.
11 Q. And so would other police departments hire
12 you to do that, then, or would Metro hire you to do
13 that?
14 A. It would be outside. So it would be other
15 agencies, other departments.
16 Q. Do you have any potential agencies that
17 you've discussed doing that sort of work with
18 already?
19 A. We've talked -- we were -- I just got back
20 from the Ohio Tactical Officers Association. But
21 that was through Metro. That was a class that we
22 did through Metro.
23 Q. Have you ever held, whether they're law
24 enforcement related or not, any professional
25 licenses or certifications? And again, this could

23

1 be law enforcement related or it could be something
2 completely unrelated to law enforcement, like a real
3 estate agent or a licensed forklift operator.
4 A. Have I?
5 Q. Yes.
6 A. No, sir, I have not.
7 Q. Have you ever tested for any license or
8 accreditation and been denied?
9 A. No, sir.
10 Q. Have you ever applied for any position or
11 promotion within Metro and been denied?
12 A. No, sir.
13 Q. Okay. Have you ever sought to -- I think
14 it's an exam you have to take to become sergeant?
15 A. Yes. I have never taken it. I've never
16 wanted to be a supervisor.
17 Q. Okay. In looking through your personnel
18 file, I notice that you have twice been suspended
19 from Las Vegas Metropolitan Police Department for
20 causing auto accidents on duty; is that accurate?
21 A. Long time ago, yes.
22 Q. Okay. Is it two and only two times you've
23 been suspended?
24 A. Yes.
25 Q. And both times were just for automobile

24

1 accidents?
2 A. Yes. And they were -- I believe they were
3 suspensions where I could give vacation time in
4 lieu, in basically a trade.
5 Q. Have you ever been given any other
6 suspension or reprimand, then --
7 A. Not to my --
8 Q. -- by Metro?
9 A. Not that I recall, no.
10 Q. Okay. In looking through your personnel
11 file, Metro gives you annual reviews; is that
12 accurate?
13 A. Yes, sir.
14 Q. Tell me about the annual review process.
15 Are you interviewed? Do you have to submit
16 documents for it? How does that work?
17 A. So basically, it's a review between you
18 and your sergeant. If you're talking about my
19 personnel review. Usually it occurs in July, so I
20 should have one coming up. I've always gotten
21 perfect scores on that. Never had a negligent or a
22 report that I didn't agree with. I take that very
23 seriously. So, I've never had a bad report in 20
24 years.
25 Q. Even after that incident on January 10,

25

1 2022, where Mr. Williams died, you weren't given any
2 negative performance review or reprimand over that,
3 were you?
4 A. No, sir.
5 Q. And, in fact, you were involved in another
6 incident a year before that on January 15 of 2021
7 involving a woman, Jasmine King, where during a SWAT
8 entry, she was severely injured and blinded during a
9 SWAT entry. You were involved in that, weren't you?
10 A. I was involved in that, yes, sir.
11 Q. And Metro did not give you any suspension
12 or reprimand at all because of that, did they?
13 A. No, sir.
14 Q. Okay. And in fact, there was an Internal
15 Affairs investigation after that SWAT action, wasn't
16 there?
17 A. Yes, sir, there was.
18 Q. Okay. And were you formally interviewed
19 as a result of that?
20 A. I was.
21 Q. Okay. And so have you seen, like, a
22 transcript of your statement?
23 A. Yes. That was a long time ago. Yes, sir.
24 Q. Okay. Well, it was -- it was three years
25 ago. Little more than three years.

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<p style="text-align: right;">26</p> <p>1 It was specifically alleged in that case</p> <p>2 that you had recommended or called for what was</p> <p>3 called a short count or a quick count that violated</p> <p>4 the civil rights of Ms. King and others inside the</p> <p>5 apartment you were entering; do you recall that?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And was that upheld or sustained by</p> <p>8 Internal Affairs?</p> <p>9 A. I was not receiving any discipline for</p> <p>10 that.</p> <p>11 Q. Okay. But they found that you had called</p> <p>12 for that and violated the woman's civil rights?</p> <p>13 A. I didn't call for that. The sergeant</p> <p>14 approved that. That was the count that we utilized</p> <p>15 in that operation.</p> <p>16 Q. Tell me what a short count or quick count</p> <p>17 is, then.</p> <p>18 A. A short count is basically a count that,</p> <p>19 when we use our breach call, is, we don't go with</p> <p>20 our long standard, which is where we count off, we</p> <p>21 count down. A short count is basically stand by and</p> <p>22 we give the breach command when we're ready.</p> <p>23 Q. Okay. So -- so let's review this.</p> <p>24 Explain to me what the standard long count is.</p> <p>25 A. "Stand by for breach. Three, two, one,</p>	<p style="text-align: right;">28</p> <p>1 MR. ANDERSON: Objection, form.</p> <p>2 Go ahead and answer.</p> <p>3 THE WITNESS: The short -- the count, the</p> <p>4 short count, had -- basically there was the</p> <p>5 announcement call. So there was announcements</p> <p>6 involved in that and the short count. So the</p> <p>7 announcements is what was basically deemed not</p> <p>8 enough. We didn't give enough announcements and</p> <p>9 time had nothing to do with the short count.</p> <p>10 BY MR. BREEDEN:</p> <p>11 Q. Okay. So what about the announcements or</p> <p>12 time was found to have violated Ms. King's civil</p> <p>13 rights in that matter?</p> <p>14 MR. ANDERSON: Objection, form.</p> <p>15 Go ahead and answer.</p> <p>16 THE WITNESS: I believe that it was only</p> <p>17 between two and two and a half seconds before the</p> <p>18 breach came. We were going -- we -- that plan was</p> <p>19 going to make sure that we had two full</p> <p>20 announcements before the actual count came, before</p> <p>21 the command came. And what had happened was, it</p> <p>22 ended up going after about a second and a half, or,</p> <p>23 like, basically an announcement, announcement and a</p> <p>24 half.</p> <p>25 ...</p>
<p style="text-align: right;">27</p> <p>1 breach."</p> <p>2 Q. So would that be a five-second countdown?</p> <p>3 A. I have no idea. I mean, I don't know. I</p> <p>4 mean, we can time it real quick.</p> <p>5 Q. Well, there's, "Stand by for breach.</p> <p>6 Five, four, three, two, one."</p> <p>7 A. "Three, two, one, breach."</p> <p>8 Q. Okay. And so what is a short count, or a</p> <p>9 quick count, then?</p> <p>10 A. "Stand by for breach. Breach. Breach.</p> <p>11 Breach."</p> <p>12 Q. And when Ms. King was injured, were you</p> <p>13 the officer that had recommended the short count to</p> <p>14 the sergeant?</p> <p>15 A. It was basically a collective group talk</p> <p>16 with the breachers. They explained to me, hey, we</p> <p>17 can go with a short count here so that we can</p> <p>18 utilize the distract off the bat to draw attention</p> <p>19 away from the door. And then we can go off the</p> <p>20 third, the final breach count. I -- I went to the</p> <p>21 sergeant, I explained that to him, and he approved</p> <p>22 it.</p> <p>23 Q. Okay. And do you agree that Metro later</p> <p>24 found that use of that short count had violated</p> <p>25 Ms. King's civil rights?</p>	<p style="text-align: right;">29</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. So was the intent in the King entry that</p> <p>3 there would be announcements made, and then there</p> <p>4 would be a breach, three, two, one count, and then</p> <p>5 force would be used?</p> <p>6 A. No. In the Jasmine King case, the plan</p> <p>7 was, there would be two full announcements. Then we</p> <p>8 would say, "Stand by. Breach, breach, breach."</p> <p>9 Which would have gave us the time that we wanted.</p> <p>10 The time that that happened and occurred, it was</p> <p>11 a -- it was an initiation prematurely and called</p> <p>12 prematurely by -- or not the call, but the charge</p> <p>13 was initiated prematurely.</p> <p>14 Q. And who prematurely initiated the charge?</p> <p>15 A. The officer that was on -- I believe it</p> <p>16 was Officer Singh.</p> <p>17 Q. You were personally sued by Jasmine King</p> <p>18 as well for violation of her civil rights, correct?</p> <p>19 A. I believe so. I can't recall.</p> <p>20 Q. Well, there was a federal lawsuit filed</p> <p>21 against you, do you recall that?</p> <p>22 A. I remember sitting in this -- in a</p> <p>23 deposition, yes. I don't remember receiving any</p> <p>24 other information after that.</p> <p>25 Q. Okay. Has that matter been settled or</p>

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1 resolved?

2 A. I believe so.

3 Q. Do you know how much was paid to Ms. King?

4 A. I don't know.

5 Q. Have you ever been sued by anyone other

6 than my client and Ms. King connected to your

7 employment with Las Vegas Metropolitan Police

8 Department?

9 A. Have I ever been sued by anyone else

10 besides Ms. King and this --

11 Q. Yes.

12 A. No, sir.

13 Q. Yes. So those are the two and only two

14 lawsuits?

15 A. Yeah, there's been one more. There was

16 Garrett. But that was -- ended up being dropped.

17 BY MR. BREEDEN:

18 Q. Okay. How long ago was that?

19 A. Eight years ago, maybe a little bit less.

20 Q. Last name was G-a-r-r-e-t?

21 A. I believe so, sir.

22 Q. And what was the basis for suing you in

23 that lawsuit?

24 A. He was -- he -- basically, it was he had

25 committed suicide, and they said that we had shot

31

1 him. We had a dog go in, found him underneath the

2 bed. He had a self-inflicted gunshot wound. The

3 dog removed him from underneath the bed. We made

4 entry, rendered aid -- rendered aid to him, and he

5 succumbed to his injuries.

6 MR. ANDERSON: Just so you know, there

7 were two lawsuits, two different parents sued, but

8 it was the same event.

9 BY MR. BREEDEN:

10 Q. Okay. Were those lawsuits filed in Clark

11 County, Nevada?

12 A. Yes, sir.

13 Q. And were they filed in federal court or

14 state court, if you know the difference?

15 A. I don't know.

16 Q. Okay. And has Mr. Anderson or his law

17 firm represented you in all those suits we've

18 discussed?

19 A. Yes, sir.

20 Q. Has Mr. Anderson represented you in any

21 legal matter other than those three and a half or

22 three to four lawsuits we've already discussed?

23 A. No, sir.

24 Q. Okay. Have you ever had to give courtroom

25 testimony in front of a judge and a jury?

32

1 A. I believe one time I've actually

2 testified. One or two times.

3 Q. Okay.

4 A. Not very many.

5 Q. And was that as part of a criminal

6 prosecution?

7 A. Yes, sir. Like, no, not for me. I mean,

8 me arresting someone, yes.

9 Q. Yeah, there was another defendant.

10 A. Yeah.

11 Q. Okay. And that defendant went to trial

12 and you had to testify as one of the officers.

13 A. Yes, sir.

14 Q. Okay. Have you ever testified in court,

15 in a courtroom in front of a judge and jury, in any

16 of the cases where you have been personally sued?

17 A. No, sir.

18 Q. Okay. Now you did mention before we

19 started that you have given another deposition. And

20 was that in the Jasmine King case?

21 A. Yes, sir.

22 Q. Okay. Do you recall when that deposition

23 was?

24 A. Couple years ago.

25 Q. Okay. Do you recall the name of the

33

1 attorney that took that deposition?

2 A. I think it's -- if I remember, maybe his

3 first name, I think it was Josh. I can't remember.

4 I'm sorry.

5 Q. Okay. That's okay. Have you ever been

6 hired as an expert witness for a lawsuit to testify

7 about police practices and procedures?

8 A. No, sir.

9 Q. All right. This particular case involves

10 a tool called a stun stick. Are you familiar with

11 that term?

12 A. Yes, sir.

13 Q. Okay. Now, prior to the January 10, 2022

14 SWAT entry, had you ever used that particular stun

15 stick in an actual live event as opposed to

16 training?

17 A. Opposed to training, no. That was the

18 first time I've used that live. I've trained it,

19 but I never used it in a live op.

20 Q. How long had you trained with it?

21 A. When we first got them, we went to the

22 range, tested them out. We actually saw that the

23 Henderson SWAT had had a variation of that, and we

24 liked that pulling system. Made it a lot more

25 simpler, less complex. I would say it was a day, up

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<p>34</p> <p>1 at the range.</p> <p>2 Q. How long, prior to January 10, 2022, did</p> <p>3 you receive that type of stun stick?</p> <p>4 A. I don't know, sir. I couldn't tell you</p> <p>5 when we received it.</p> <p>6 Q. Is it -- is it within a year?</p> <p>7 A. I would say within a year, yes, sir.</p> <p>8 Q. And how many times, then, did you practice</p> <p>9 deploying it before January 10, 2022?</p> <p>10 A. Me personally?</p> <p>11 Q. Yes.</p> <p>12 A. Just the day that we trained it.</p> <p>13 Q. One day. How many different charges?</p> <p>14 A. We utilized the distracts. I don't know.</p> <p>15 A few. I couldn't tell you.</p> <p>16 Q. Let me show you something. We'll have it</p> <p>17 marked as an exhibit here.</p> <p>18 (Exhibit No. 1 was marked.)</p> <p>19 BY MR. BREEDEN:</p> <p>20 Q. This will be Exhibit --</p> <p>21 THE REPORTER: Wait just a minute.</p> <p>22 Hand it to the witness?</p> <p>23 MR. BREEDEN: Yeah.</p> <p>24 Q. We'll have this marked as Exhibit 1.</p> <p>25 Exhibit 1 has a few different pages. They</p>	<p>36</p> <p>1 a window.</p> <p>2 A. You mean the top?</p> <p>3 Q. Yes.</p> <p>4 A. The hood? Yes.</p> <p>5 Q. The hood, okay. And then there's a little</p> <p>6 trigger that you can pull with one of your hands,</p> <p>7 and it pulls a pin on the distract charge; is that</p> <p>8 accurate?</p> <p>9 A. Pulls the pin back to strike the 209</p> <p>10 primer that's in the initiator head.</p> <p>11 Q. Once you pull that back, if -- if the</p> <p>12 charge works correctly, how long is it before that</p> <p>13 charge deploys?</p> <p>14 A. Well, it's not a charge. It's a</p> <p>15 distraction device that's in the housing. The</p> <p>16 housing hood. It should -- it's automatic. Our</p> <p>17 distracts deploy at a second and a half delay. The</p> <p>18 defensive technology 25 that we use, that is a</p> <p>19 second and a half delay. But in the hood, because</p> <p>20 it's command initiated and we're utilizing HMX,</p> <p>21 which is a high explosive powder in the actual 209</p> <p>22 primer that's the connection piece, there's no delay</p> <p>23 on it.</p> <p>24 Q. So once you pull the pin, it -- it is</p> <p>25 intended to discharge right away.</p>
<p>35</p> <p>1 been Bates labeled WILLIAMS 793 through 797. Will</p> <p>2 you please take a look at all the different pages</p> <p>3 there for me?</p> <p>4 A. Yes, sir.</p> <p>5 Q. So, I'll represent to you that Exhibit 1</p> <p>6 are several pictures of a stun stick taken from the</p> <p>7 JN Tactical website.</p> <p>8 Looking at this exhibit, is that the same</p> <p>9 or similar type of stun stick that you used on</p> <p>10 January 10, 2022?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay. And do you know, is it the exact</p> <p>13 same make and model? Does it look different at all</p> <p>14 from the type -- kind you used?</p> <p>15 A. No, it's pretty -- it's pretty big, right</p> <p>16 on. 100 percent.</p> <p>17 Q. Okay. And so the way that this is used,</p> <p>18 just looking at 793, you're going to be holding it</p> <p>19 by the two handles at the top, correct?</p> <p>20 A. Yeah. I would be holding that handle and</p> <p>21 that handle.</p> <p>22 Q. Okay. And then at the bottom, there's,</p> <p>23 like -- gosh, I don't even know how to describe it.</p> <p>24 But that's where a distract charge goes, and then</p> <p>25 that is the part that's used to, for example, break</p>	<p>37</p> <p>1 A. It should -- it should initiate</p> <p>2 automatically. It should initiate that flash powder</p> <p>3 into the HMX from the strike of the 209 primer,</p> <p>4 which is into the housing fuse of the Def Tech 25.</p> <p>5 Q. And when you pull the trigger, the</p> <p>6 distract, does it fall out of the stun stick or it</p> <p>7 stays within the hood?</p> <p>8 A. No, sir. It stays within the housing</p> <p>9 component here, and -- which is another reason why</p> <p>10 we bought this actual piece. Because we have direct</p> <p>11 control of where that distract body goes.</p> <p>12 Q. And -- I guess from one end to the other,</p> <p>13 in feet, how long is this?</p> <p>14 A. Well, it can extend. It could -- I would</p> <p>15 say -- and now, this is just an approximate. I'm</p> <p>16 going to say 15 to 20 feet at full extension. I</p> <p>17 would say without extension, maybe five feet. Maybe</p> <p>18 four and a half, the whole rod maybe.</p> <p>19 Q. Did you have it extended at all when you</p> <p>20 used it in this case?</p> <p>21 A. No, sir. I did not.</p> <p>22 Q. I've seen pictures of it taken afterwards,</p> <p>23 sort of propped up against a wall. And it looks</p> <p>24 like, as you say, it's maybe four and a half, five</p> <p>25 feet in length; you think that's fair?</p>

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<p>38</p> <p>1 A. I think that's fair, yes.</p> <p>2 Q. Okay. Now, let me -- let me ask you,</p> <p>3 then, because you use the word -- you know, when</p> <p>4 we're talking about the distract, I've -- I've</p> <p>5 called it a charge, but I'll use your terminology.</p> <p>6 The distract that's loaded and it's behind the hood</p> <p>7 on this stun stick. Is that something you prepare</p> <p>8 yourself or does it -- is it purchased from a</p> <p>9 company and it's already loaded?</p> <p>10 A. You're asking about the actual distract?</p> <p>11 Q. Yes.</p> <p>12 A. The flash tube and all that? No. So, the</p> <p>13 way that it's kept in our truck is the way that you</p> <p>14 see it here. So, prior to every mission, if we're</p> <p>15 going to utilize this tool, it will be loaded there.</p> <p>16 It would be basically constructed prior to us</p> <p>17 leaving the operation, the breach spot. So, yes,</p> <p>18 there will be guys that will prepare that.</p> <p>19 Q. And I think you used the term a Def Tech</p> <p>20 25?</p> <p>21 A. Yes.</p> <p>22 Q. What is that?</p> <p>23 A. That stands for Defense Technology. That</p> <p>24 is the actual brand and the name of the distract</p> <p>25 that we're using.</p>	<p>40</p> <p>1 Q. Okay. And so, the particular distract</p> <p>2 that was used on January 10, 2022, was that brand</p> <p>3 new from Def Tech or had that been reloaded and</p> <p>4 reused?</p> <p>5 A. That was right out of the box. We</p> <p>6 don't -- we don't reuse a -- once we reload -- once</p> <p>7 we've shot -- utilized a distract, that fuse head is</p> <p>8 gone. The only thing that we can actually reuse is</p> <p>9 that body that you have a picture of.</p> <p>10 Q. Yeah. So let me show you -- we'll have</p> <p>11 this marked as Exhibit 2.</p> <p>12 (Exhibit No. 2 was marked.)</p> <p>13 THE WITNESS: Thank you, ma'am.</p> <p>14 BY MR. BREEDEN:</p> <p>15 Q. So, looking here at Exhibit 2, I'll</p> <p>16 represent to you that this is a document that I</p> <p>17 pulled from the Def Tech website, specifications is</p> <p>18 what I'm looking for.</p> <p>19 Is this the same type of distract that you</p> <p>20 deployed in the stun stick on January 10, 2022?</p> <p>21 A. Well, I mean, it's a -- it's like a</p> <p>22 cartoon drawing of it. This isn't the actual -- I</p> <p>23 mean, it doesn't show what it looks like. It's</p> <p>24 actually a black body, it says Defensive Technology</p> <p>25 on it. It says 25 at the bottom. But -- and then</p>
<p>39</p> <p>1 Q. And so that -- the term Def Tech 25, does</p> <p>2 that refer to, like, a prepackaged, presold</p> <p>3 distract, or just a canister that can be loaded in</p> <p>4 different ways so the distract behaves in different</p> <p>5 ways?</p> <p>6 A. No. So, the actual distract -- the reason</p> <p>7 why it's called a 25 is because that housing body</p> <p>8 can be reused 25 times before they deem it to be</p> <p>9 unsafe. It's a pistol -- it's gun steel that it's</p> <p>10 made out of. So you can load the normal 25, which</p> <p>11 is 12 gram or 4 gram distract, into the fuse head --</p> <p>12 or sorry, into the body to where -- hand deployment,</p> <p>13 or you can run it command initiated, which is the</p> <p>14 way it's ran here. With the nonelectric shock tube</p> <p>15 logged -- clicked into the flash tube, which the HMX</p> <p>16 powder mixes with the flash powder, which is loaded</p> <p>17 into the 209 primer for the strike, which initiates</p> <p>18 everything.</p> <p>19 Q. And so, if you deploy one of these</p> <p>20 distracts, there's someone at Metro who is in charge</p> <p>21 of sort of reloading them and reusing the cartridge?</p> <p>22 A. We -- we actually purchase reloads. We</p> <p>23 have them in our equipment truck. So when they are</p> <p>24 utilized on an operation, we can reload them</p> <p>25 ourselves.</p>	<p>41</p> <p>1 it's a screwed in fuse head. So I'd say it's</p> <p>2 basically it.</p> <p>3 Q. Okay. So, yeah, this is -- the</p> <p>4 illustration shows a cross section of it.</p> <p>5 A. Yeah, yeah.</p> <p>6 Q. And then -- so, I guess some product</p> <p>7 specifications there on the left in terms of flash</p> <p>8 powder and sound level and light level.</p> <p>9 Was it loaded with that type of explosive</p> <p>10 content when you deployed it?</p> <p>11 A. I'll be honest with you, it was probably</p> <p>12 the command initiated ones that come premade. Which</p> <p>13 is a -- I believe, you know, it's already set up</p> <p>14 with the -- with the shock tube already attached to</p> <p>15 it. So it's not this.</p> <p>16 Q. Okay. So how would you describe, then, if</p> <p>17 you're telling me, "Hey, I want you to go to the Def</p> <p>18 Tech website and order one of these for me," how</p> <p>19 would you explain to me how to order one?</p> <p>20 A. Our logistics guys would do all that. We</p> <p>21 just tell them what we need.</p> <p>22 Q. Okay. And so what would you tell your</p> <p>23 logistics person?</p> <p>24 A. I would just say, "Hey, we need new</p> <p>25 command initiated reload defuse --</p>

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<p style="text-align: right;">42</p> <p>1 THE REPORTER: Wait, excuse me. Command</p> <p>2 initiated reload?</p> <p>3 THE WITNESS: I'm sorry, ma'am. Command</p> <p>4 initiated reloads for the stun stick. And they</p> <p>5 would know that. I apologize ma'am.</p> <p>6 That's how we would do that. We would</p> <p>7 tell them, hey, we need new -- we need more Low Roll</p> <p>8 bodies, or if we need more housing bodies we would</p> <p>9 just tell them and they would order it.</p> <p>10 BY MR. BREEDEN:</p> <p>11 Q. What do you mean by "command initiated"?</p> <p>12 A. Basically, we have control when it's going</p> <p>13 to go off. It's off of us. It's off of when we</p> <p>14 send the primer.</p> <p>15 Q. As opposed to, like, a delay?</p> <p>16 A. A hand thrown, hand deployed and a delay,</p> <p>17 yes.</p> <p>18 Q. Okay. Now, just generally speaking, why</p> <p>19 are these types of distracts used during SWAT</p> <p>20 operations?</p> <p>21 A. Which one, sir? The stun stick or just</p> <p>22 hand deployment?</p> <p>23 Q. Let's talk about the stun stick that was</p> <p>24 actually deployed on January 10, 2022.</p> <p>25 A. The stun stick that we used that night can</p>	<p style="text-align: right;">44</p> <p>1 the stun stick, but to also break out the window in</p> <p>2 case the team had any issues at the front door, so</p> <p>3 at least we had eyes in to the target. To see -- so</p> <p>4 what we could see.</p> <p>5 Q. And when you deploy this type of distract,</p> <p>6 there's an extremely bright flash, correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And there's a single, loud noise, right?</p> <p>9 A. One noise, yes.</p> <p>10 Q. Do you agree that that noise sounds like a</p> <p>11 an explosion?</p> <p>12 A. I would say it's a very loud bang, yes.</p> <p>13 Q. Would you agree with me that that might</p> <p>14 sound to somebody like some sort of gun or weapon</p> <p>15 that's been fired?</p> <p>16 A. It's been known to -- for people to say</p> <p>17 that it sounds like that, yes.</p> <p>18 Q. Okay. You say it's been known for people</p> <p>19 to say that. Who has told you that?</p> <p>20 A. Just when we've arrested people and</p> <p>21 they -- you know, as we're -- as we deployed</p> <p>22 distracts, like, "Oh, we thought those were</p> <p>23 gunshots."</p> <p>24 Q. Okay. So, before January 10, 2022, you</p> <p>25 were aware that some people that you had used these</p>
<p style="text-align: right;">43</p> <p>1 be utilized in two ways. We can obviously utilize</p> <p>2 that tool to insert through a window. We can</p> <p>3 utilize that tool because it can extend. We can</p> <p>4 actually extend it up to air burst outside of a</p> <p>5 window on a second floor or something that's a</p> <p>6 little bit, you know, elevated.</p> <p>7 But for that particular night, we utilized</p> <p>8 the stun stick in this case to break a window,</p> <p>9 insert that, extend it as high as we can to disrupt</p> <p>10 and disorient the people that are inside. Causing a</p> <p>11 major -- a large flash and an initiation explosive.</p> <p>12 Q. Does it also cause a pressure wave a</p> <p>13 person can feel?</p> <p>14 A. Over pressure? It could, yes.</p> <p>15 Q. Okay. So, the purpose of -- of this</p> <p>16 device, and I'm sorry, I'm not going to recall the</p> <p>17 exact phrasing you used, I don't think, but it's to</p> <p>18 disorient people?</p> <p>19 A. Disorient, cause disruption. It's -- it</p> <p>20 basically, just like it says, it distracts, causing</p> <p>21 attention away from -- from where we're trying to</p> <p>22 come in from. We utilize that in a way to also</p> <p>23 create an opening as well, to see through -- we --</p> <p>24 for the window.</p> <p>25 My job that night was to not only initiate</p>	<p style="text-align: right;">45</p> <p>1 distractions on had actually confused them for</p> <p>2 gunshots.</p> <p>3 A. People outside, yes.</p> <p>4 Q. Okay. But you're aware that it can have</p> <p>5 that impression on people.</p> <p>6 A. Yes.</p> <p>7 Q. That they are already being fired on.</p> <p>8 A. Yes.</p> <p>9 Q. So, this thing creates a pretty loud</p> <p>10 flash. What do you do so that that flash doesn't</p> <p>11 affect you when you deploy it?</p> <p>12 A. So, when we deployed into the structure,</p> <p>13 obviously it's going to be deployed as high as</p> <p>14 possible.</p> <p>15 There's three SOPs that I have to abide by</p> <p>16 when I deploy a stun stick, or any operator deploys</p> <p>17 a stun stick. Is we have to clear the area. We</p> <p>18 have to make sure that there's nobody within the</p> <p>19 vicinity of the area. When we break glass or</p> <p>20 anything like that. We also have to make sure that</p> <p>21 there is nothing flammable or hazardous that's going</p> <p>22 to be remotely within the vicinity of the area</p> <p>23 before we initiate the 25 to go.</p> <p>24 So to answer your question, yes, it</p> <p>25 creates a very large light. We look away to avoid</p>

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<p>46</p> <p>1 the brightness and the intensity of the</p> <p>2 illumination. Because it does cause a very bright</p> <p>3 light. Def Tech or -- talks about 40- to 50,000 of</p> <p>4 candela. I mean, I'm not Thomas Edison. I didn't</p> <p>5 invent the light bulb. I don't know what a candela</p> <p>6 is, but it's a very intense light. I've actually</p> <p>7 been caught looking at it during training, and</p> <p>8 it's -- yes, it causes people to look away.</p> <p>9 Temporarily incapacitate, disorient, disrupt, all</p> <p>10 those things.</p> <p>11 Q. When you actually deploy it, then, you</p> <p>12 know, just using January 10, 2022 as the example,</p> <p>13 did you turn your head to the side and close your</p> <p>14 eyes to minimize the effect of the flash --</p> <p>15 A. In this -- I apologize. I didn't mean to</p> <p>16 step on you.</p> <p>17 In this situation I didn't need to.</p> <p>18 Because I was able to get it as high and basically</p> <p>19 touching the ceiling. So I didn't have to. I just</p> <p>20 basically stood back and leaned back and angled my</p> <p>21 body to the left side of the window.</p> <p>22 Q. But you weren't looking at it when you</p> <p>23 deployed it, were you?</p> <p>24 A. No, I didn't.</p> <p>25 Q. Did you have your eyes open or closed?</p>	<p>48</p> <p>1 clear.</p> <p>2 Q. And in terms of the -- the sound that it's</p> <p>3 creating, I think you described it as a very long</p> <p>4 (sic) bang that some people have confused with</p> <p>5 gunfire. Do you wear any hearing protection for</p> <p>6 that deployment?</p> <p>7 A. Yes, sir. They're attached to my helmet.</p> <p>8 Q. Okay. And so have you been around these</p> <p>9 not wearing hearing protection when they're</p> <p>10 deployed?</p> <p>11 A. Have I been around them? No. We</p> <p>12 always -- if we're training with distracts or</p> <p>13 anything, we're always making sure that we have</p> <p>14 hearing protection on.</p> <p>15 Q. Why is that?</p> <p>16 A. Protect our ears.</p> <p>17 Q. And do you agree with me that it would</p> <p>18 have a confusing and distracting effect on a</p> <p>19 person's hearing if they were to be around one of</p> <p>20 those when it deployed without hearing protection?</p> <p>21 A. I would agree, yes.</p> <p>22 Q. And what -- you know, there's different</p> <p>23 kinds of hearing protection that you can have. I</p> <p>24 mean, there's the -- there's those little, like,</p> <p>25 foam earbuds that you can put in, or if you were at</p>
<p>47</p> <p>1 A. Yes, my eyes were open.</p> <p>2 Q. Okay. In the situations where you say</p> <p>3 you -- during training the flash has caught your</p> <p>4 eyes open, how has that affected you?</p> <p>5 A. Just a quick little -- you know, I would</p> <p>6 say half a second little -- obscuring my vision.</p> <p>7 Q. Okay. And how long did that effect last</p> <p>8 for you?</p> <p>9 A. Like I said, maybe half a second.</p> <p>10 Q. But you would agree that it's confusing</p> <p>11 and disorienting on people?</p> <p>12 A. I would agree, yes, sir.</p> <p>13 Q. Okay. And then, were you wearing any</p> <p>14 goggles or eye protection?</p> <p>15 A. I was, sir, yes.</p> <p>16 Q. Okay. What were you wearing?</p> <p>17 A. Ballistic -- well, not ballistic, that's</p> <p>18 what they're called. Just an Oakley clear lens.</p> <p>19 Q. Okay. It's not shaded in any manner?</p> <p>20 A. No, sir, it is not shaded.</p> <p>21 Q. Okay. And why -- is there some reason</p> <p>22 it's not shaded?</p> <p>23 A. My lenses? Well, our operation was dark</p> <p>24 at night. And I'm -- I want to be able to see. I'm</p> <p>25 not -- I don't need any tint. I want them to be</p>	<p>49</p> <p>1 a rifle range you can wear, like, noise canceling</p> <p>2 headphones. What is the hearing protection that you</p> <p>3 had on that day?</p> <p>4 A. I had headphones. The ones you're talking</p> <p>5 about, the noise, auditory. Yeah.</p> <p>6 Q. You had noise canceling headphones on.</p> <p>7 A. Uh-huh, yes.</p> <p>8 Q. All right. And are those -- is that sort</p> <p>9 of standard practice when you're using a stun stick,</p> <p>10 to wear hearing protection of that kind?</p> <p>11 A. It's standard practice for us to have</p> <p>12 hearing protection no matter what job we're doing.</p> <p>13 Q. Now, I know Officer Rothenburg was close</p> <p>14 by. Do you -- did I pronounce that name correctly?</p> <p>15 A. Rothenburg, yes, sir.</p> <p>16 Q. Did Officer Rothenburg have hearing</p> <p>17 protection on as well?</p> <p>18 A. I believe he did, yes, sir.</p> <p>19 Q. Did all the officers on the SWAT team have</p> <p>20 hearing protection?</p> <p>21 A. To my knowledge, yes, sir. They should</p> <p>22 have.</p> <p>23 Q. Okay. Noise canceling?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Wouldn't that impair your ability to speak</p>

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<p style="text-align: right;">50</p> <p>1 to people or hear people on the inside?</p> <p>2 A. No. No. We can still talk, we can still</p> <p>3 communicate with our headphones on.</p> <p>4 Q. Okay. To each other or to anyone?</p> <p>5 A. We have radios, we have -- our radios and</p> <p>6 our communication pieces are all hooked into our</p> <p>7 headphones with our mikes. That's how we can</p> <p>8 communicate.</p> <p>9 Q. Okay. Well, members of the public like</p> <p>10 Mr. Williams, he wasn't miked up and he didn't have</p> <p>11 access to your radios, right?</p> <p>12 A. No.</p> <p>13 Q. Okay. So, if Mr. Williams had tried to</p> <p>14 say something, don't you think the hearing</p> <p>15 protection you're wearing would have impaired your</p> <p>16 ability to hear that?</p> <p>17 A. No.</p> <p>18 Q. Noise canceling headphones --</p> <p>19 A. If he was saying something to us, no, we</p> <p>20 would be able to hear him. Our -- our headphones --</p> <p>21 basically, we have -- we have devices where we</p> <p>22 can -- they cancel out -- we can hear. We can hear</p> <p>23 just fine.</p> <p>24 Q. Well, you would agree -- I mean, the</p> <p>25 purpose of noise canceling headphones is to impair</p>	<p style="text-align: right;">52</p> <p>1 a half of while that thing -- when that thing is</p> <p>2 deployed, that we're probably not going to hear each</p> <p>3 other, yes.</p> <p>4 Q. Have you ever been to a concert or, you</p> <p>5 know, something else. Like, you've been around a</p> <p>6 jet plane and there's some very loud noise and</p> <p>7 you're exposed to it, and then you notice that even</p> <p>8 when the noise stops, you're hearing is still</p> <p>9 affected.</p> <p>10 A. I can honestly tell you, I've never been</p> <p>11 to a concert. Yes, I've been around planes. When</p> <p>12 we do dignitary protection details. I don't -- I've</p> <p>13 never been affected by it. So I don't understand</p> <p>14 the -- I don't know the example that you're giving.</p> <p>15 I apologize.</p> <p>16 Q. Okay. Well, as far as you know, who was</p> <p>17 the person who made the decision to use the stun</p> <p>18 stick on January 10, 2022?</p> <p>19 A. It was basically -- the option was given</p> <p>20 by the recon officers to the Assistant Team Leader.</p> <p>21 That was also then given to -- the Assistant Team</p> <p>22 Leader presented that to the sergeants, the team</p> <p>23 leaders. The team leader then, per policy, has to</p> <p>24 get that approved by the lieutenant, because it's</p> <p>25 going to be an insertion into the structure. And so</p>
<p style="text-align: right;">51</p> <p>1 your hearing somewhat, right?</p> <p>2 A. Just kind of cancels out some of the</p> <p>3 noise, like, when we're utilizing, like, distracts</p> <p>4 and large bangs. Like, we can hear just fine.</p> <p>5 Q. Would you agree with me that if one of</p> <p>6 these distracts is going off and someone is speaking</p> <p>7 at the same time, it would be difficult to hear or</p> <p>8 understand them over the distract noise?</p> <p>9 A. I'm sorry, can you repeat that?</p> <p>10 Q. Yeah, I'm sorry. It was kind of a long</p> <p>11 question.</p> <p>12 The question is, would you agree with me</p> <p>13 that if somebody was speaking, like we're speaking</p> <p>14 during this deposition, if we were doing this while</p> <p>15 one of these distracts is going off, do you agree</p> <p>16 with me that it would be more difficult to</p> <p>17 understand me?</p> <p>18 A. It would be a loud bang. I mean, it</p> <p>19 depends on where it would be deployed. If it was</p> <p>20 deployed on the outside, you and I would -- you and</p> <p>21 I would -- we would hear a loud bang, but we could</p> <p>22 still easily talk and communicate with each other.</p> <p>23 That door comes open, we -- they deploy a</p> <p>24 distract in here, and we hear a loud bang,</p> <p>25 there's -- there's probably going to be a second and</p>	<p style="text-align: right;">53</p> <p>1 lieutenant O'Daniel approved that. The ATL -- ATL</p> <p>2 Werner brought that to Sergeant Backman and Sergeant</p> <p>3 Finley.</p> <p>4 Q. Okay. So thank you for providing the</p> <p>5 names to those folks. But as far as you are</p> <p>6 concerned, who's the person ultimately in charge of</p> <p>7 that decision? Even if it's recommended by</p> <p>8 somebody, who -- who's that decision ultimately fall</p> <p>9 on?</p> <p>10 A. To use it?</p> <p>11 Q. Yes.</p> <p>12 A. The lieutenant.</p> <p>13 Q. O'Daniel?</p> <p>14 A. Yes.</p> <p>15 Q. And you're aware she approved it in this</p> <p>16 case?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know why she approved it?</p> <p>19 A. I do not.</p> <p>20 Q. Okay. If you had designed this squad --</p> <p>21 SWAT action, the IAP, would you have recommended the</p> <p>22 use of a stun stick?</p> <p>23 A. The IAP?</p> <p>24 Q. Yes.</p> <p>25 A. We don't fill out the IAP. You mean the</p>

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<p>54</p> <p>1 actual -- the planning phase, the tactical --</p> <p>2 Q. Yes, if you planned it.</p> <p>3 A. If I would have planned it, would I have</p> <p>4 utilized the stun stick; is that what you're asking</p> <p>5 me?</p> <p>6 Q. Correct?</p> <p>7 A. At the ATL, yes, I would have.</p> <p>8 Q. Okay. Why?</p> <p>9 A. I feel it gave the team a very tactical</p> <p>10 advantage because it was on the opposite side of the</p> <p>11 door. If the team did get hung up during the</p> <p>12 breach, if they were delayed, by utilizing the stun</p> <p>13 stick and breaking the window, it allowed us eyes in</p> <p>14 to see into the structure, to see what's going on.</p> <p>15 If people are arming themselves, if the door is</p> <p>16 barricaded, it allows us to at least hold that area</p> <p>17 and explain to the team what's happening and what --</p> <p>18 what the problem is. So, yes.</p> <p>19 Q. I want to talk a little bit about your</p> <p>20 training to be a SWAT officer. I assume when you're</p> <p>21 originally hired as an officer, you have to undergo</p> <p>22 some sort of basic training or education to work for</p> <p>23 the department; is that accurate?</p> <p>24 A. Yes, sir. You go through, obviously, a</p> <p>25 police academy.</p>	<p>56</p> <p>1 believe, yes, now it's around 120. I believe</p> <p>2 they're going to extend that training.</p> <p>3 Q. And is that conducted by Metro or some</p> <p>4 sort of outside agency?</p> <p>5 A. No, that's conducted by Metro. That's by</p> <p>6 our training section, our training support detail.</p> <p>7 There are three operators over that and a sergeant.</p> <p>8 Q. And when did you go through that SWAT</p> <p>9 training?</p> <p>10 A. I made SWAT in October of 2010. So</p> <p>11 probably October -- I actually know my date when I</p> <p>12 got my call was October 10, 2010. And my SWAT</p> <p>13 school probably started that next week.</p> <p>14 Q. And at that time, was it the 120-hour</p> <p>15 course?</p> <p>16 A. I believe it was 80 at the time, sir.</p> <p>17 Q. Okay. And who were your instructors</p> <p>18 during that course?</p> <p>19 A. It was Officer Kevin McCord, Officer Troy</p> <p>20 Wilson, and I believe Officer Mills, Bob Mills was</p> <p>21 still in the unit. I could be wrong, and I</p> <p>22 apologize.</p> <p>23 Q. And I know it's -- you know, in terms of</p> <p>24 hours it's 120 hours, but how many days, weeks, or</p> <p>25 months does that take to complete?</p>
<p>55</p> <p>1 Q. And so assuming you -- you've passed the</p> <p>2 police academy, you've been hired as an -- as an</p> <p>3 officer. What sort of additional training or</p> <p>4 qualifications do you have to have to join the SWAT?</p> <p>5 A. So, to join SWAT, basically you only need</p> <p>6 to be a police officer for six years. We have best</p> <p>7 candidates will kind -- title thing -- in our</p> <p>8 announcement. Firearm instructor, defensive tactic</p> <p>9 instructor. All officers are now CIT certified, the</p> <p>10 crisis intervention for -- you know, to be able to</p> <p>11 talk to people. Everyone is now certified in the</p> <p>12 academy. That was not something that was given when</p> <p>13 we first -- when I first went through back in '04.</p> <p>14 We are also, they -- the best candidates</p> <p>15 look to have instructor development certifications,</p> <p>16 any outside tactical training. Those are some of</p> <p>17 the things that we look at when new SWAT operators</p> <p>18 are looking to come up. It's not mandate -- I mean,</p> <p>19 it's not something you have to have, but it's</p> <p>20 something we like to see.</p> <p>21 Q. Well, let me ask you. Isn't there a</p> <p>22 120-hour SWAT training course that you have to</p> <p>23 undergo?</p> <p>24 A. Well, that's when you first come up to</p> <p>25 SWAT. That's the SWAT school they give. And I</p>	<p>57</p> <p>1 A. Maybe it's a four-week or -- it depends,</p> <p>2 sir. It really does, on what -- how the breakup is.</p> <p>3 I mean, because those operators are still full-time</p> <p>4 operators that assist us with callouts. So I don't</p> <p>5 know. Like, that could take four weeks, it could</p> <p>6 take five. I know that their last one took around</p> <p>7 four weeks.</p> <p>8 Q. Now, when you did that training course,</p> <p>9 was it all classroom hours or was there some stuff</p> <p>10 in the field training?</p> <p>11 A. When I went through, we did a little bit</p> <p>12 of classroom stuff in the morning, and then</p> <p>13 everything else was practical application throughout</p> <p>14 the rest of the day. Like entry training, vehicle</p> <p>15 assaults, bus assaults, manual ballistic breaching</p> <p>16 training. Just like that.</p> <p>17 Q. Okay. Were you allowed to go on live SWAT</p> <p>18 actions before you completed that -- I think you</p> <p>19 said it was an 80-hour course at that time?</p> <p>20 A. At the time I -- basically what you're</p> <p>21 asking me is -- no. I was focused on -- we were</p> <p>22 basically new guys, we were on SWAT school.</p> <p>23 Q. Okay. So you were new, you were full-time</p> <p>24 SWAT school, you were not allowed to go on live or</p> <p>25 actual SWAT missions until you completed that</p>

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<p>58</p> <p>1 course.</p> <p>2 A. Until we completed the course, yes, sir.</p> <p>3 Q. Okay. Do you agree that that SWAT</p> <p>4 training course added value to your training as an</p> <p>5 officer to do SWAT?</p> <p>6 A. Absolutely. It's -- our training is</p> <p>7 different than just basic patrol stuff.</p> <p>8 Q. And so you agree that anybody who wants to</p> <p>9 be on SWAT should undergo that training first?</p> <p>10 A. Through SWAT school?</p> <p>11 Q. Yes.</p> <p>12 A. I mean, if you're talking about -- are you</p> <p>13 talking about making live entries and stuff like</p> <p>14 that? Or are you just talking if you want to come</p> <p>15 to SWAT -- you want to go to SWAT school, you have</p> <p>16 to go through our process. I guess I'm confused by</p> <p>17 your question.</p> <p>18 Q. Yeah. Well, the question is, you know, do</p> <p>19 you think people should complete that additional</p> <p>20 SWAT training before they go on live SWAT actions?</p> <p>21 A. I see what you're saying. Yes. So</p> <p>22 when -- your training needs to be completed, yes. I</p> <p>23 see what you're saying, yes.</p> <p>24 Q. So you agree with my statement?</p> <p>25 A. Yes.</p>	<p>60</p> <p>1 A. I don't know -- I don't know.</p> <p>2 Q. You had no idea if he had undergone the</p> <p>3 120-hour SWAT training?</p> <p>4 A. I didn't -- I don't know -- I don't know.</p> <p>5 Q. You just didn't know one way or another.</p> <p>6 A. I know he went through some type of</p> <p>7 training. I don't know exactly what his SWAT school</p> <p>8 entailed. I don't know everything that was done</p> <p>9 with that.</p> <p>10 Q. Okay. In the SWAT training, you talked</p> <p>11 about what's called a CET or CET entry, correct?</p> <p>12 A. Controlled Entry Tactics, CET, yes, sir.</p> <p>13 Q. And what is that and how is that</p> <p>14 distinguished from a no-knock warrant or a surround</p> <p>15 and call-out?</p> <p>16 A. Okay. So, we'll start from each one, all</p> <p>17 right?</p> <p>18 So Surround and Call-Out is basically</p> <p>19 where you're going to surround a structure. We're</p> <p>20 going to park armored vehicles in certain tactical</p> <p>21 positions, off of corners of the -- of the house.</p> <p>22 We're going to completely surround it, we're going</p> <p>23 to completely contain it. Make sure that we have</p> <p>24 all of our SWAT assets in line. We're going to</p> <p>25 start with verbal announcements over a PA, loud --</p>
<p>59</p> <p>1 Q. Okay.</p> <p>2 A. I thought you were talking about, like,</p> <p>3 some just random patrol guy wanting to go through</p> <p>4 SWAT school. No, sorry.</p> <p>5 Q. Well, I mean, yeah. So a random -- random</p> <p>6 patrol guy says, "Hey, I want to be on SWAT. You</p> <p>7 guys are doing a SWAT thing tomorrow. Can I go with</p> <p>8 you?" What do you tell them?</p> <p>9 A. We don't offer that. Like, we offer our</p> <p>10 role playing. So, like, if you want to come observe</p> <p>11 our training, 100 percent. But we don't just allow</p> <p>12 them to just jump in. There are classes we offer</p> <p>13 them, guys that are interested in SWAT. But to run</p> <p>14 a full-blown SWAT school, you have to have tested</p> <p>15 and been one of the guys in our selection, yes.</p> <p>16 Q. Well, why wouldn't you want somebody who</p> <p>17 has not undergone that full SWAT training to be part</p> <p>18 of the SWAT team? In a live --</p> <p>19 A. Just inexperience, very new. They need to</p> <p>20 have the training. They need to be able to be</p> <p>21 comfortable. Stuff like that.</p> <p>22 Q. Okay. What do you know about Sergeant</p> <p>23 Backman's SWAT training prior to January 10, 2022?</p> <p>24 A. What do I know about it?</p> <p>25 Q. Yeah.</p>	<p>61</p> <p>1 LRAD bullhorn. Allow them ample opportunities to</p> <p>2 come out. If they do not come out after</p> <p>3 announcements, we go to a distract plan. More</p> <p>4 announcements. Go to a breach plan. That's the</p> <p>5 Surround and Call-Out. We're giving them that time</p> <p>6 to come out.</p> <p>7 Now going to -- you asked about a CET.</p> <p>8 Controlled Entry Tactic. That is more of a dynamic</p> <p>9 movement. It's a dynamic approach to the door.</p> <p>10 We're utilizing announcements, announce -- several</p> <p>11 announcements before we end up breaching the door</p> <p>12 and we are all then making a dynamic movement into</p> <p>13 the structure to fill it. We would use a CET tactic</p> <p>14 to utilize speed, surprise, and overwhelming action.</p> <p>15 For suspects that are inside known to be violent,</p> <p>16 known to be armed. The -- also, the reasons why we</p> <p>17 would do CET tactics -- or CET entries is</p> <p>18 environmental factors. Consisting of, can we</p> <p>19 contain the structure? Are we able to bring armored</p> <p>20 vehicles up? Are we able to be able to limit their</p> <p>21 movement?</p> <p>22 So, by getting on -- by making entry and</p> <p>23 using that speed, surprise, and overwhelming action.</p> <p>24 And we would also use it because it's a smaller</p> <p>25 structure that we know that we can dominate and fill</p>

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<p>62</p> <p>1 with manpower.</p> <p>2 Now, the no-knock is -- basically if we</p> <p>3 have a no-knock, if we are authorized a no-knock</p> <p>4 search warrant, we would not utilize announcements.</p> <p>5 We would just basically make our approach, breach</p> <p>6 the door, and make entry. Once we would -- did make</p> <p>7 entry at that time, we would sound off police search</p> <p>8 warrant.</p> <p>9 Q. So, when we talk about the January 10,</p> <p>10 2022 SWAT mission, that was not a no-knock warrant.</p> <p>11 A. That was not a no-knock search warrant.</p> <p>12 Q. So, if that had been a no-knock, what</p> <p>13 would you have done differently from the CET entry</p> <p>14 you actually used?</p> <p>15 A. If it was a no-knock?</p> <p>16 Q. Yes.</p> <p>17 A. If it was a no-knock, basically what would</p> <p>18 have -- happen with that, if we had the approval, we</p> <p>19 would have made our approach. I would have probably</p> <p>20 been given the command over the radio to communicate</p> <p>21 to breach the window, initiate the stun stick, and</p> <p>22 then they probably would have breached the door.</p> <p>23 Just like -- we just wouldn't have announced. Once</p> <p>24 the door came open, announcements would have</p> <p>25 started, police search warrant.</p>	<p>64</p> <p>1 through the commander, and up to the deputy chief.</p> <p>2 So, we haven't been utilizing it much. But mainly,</p> <p>3 the only time we would use -- utilize it now is if</p> <p>4 we're going to receive and we have the approval for</p> <p>5 a no-knock.</p> <p>6 Q. Okay. So it's your understanding that as</p> <p>7 of today, CET entry is only permitted when there's a</p> <p>8 no-knock warrant.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. And when did that policy change</p> <p>11 occur?</p> <p>12 A. I would say within the last year, since</p> <p>13 Commander Peterson has taken over. He is our</p> <p>14 director of SWAT.</p> <p>15 Q. Between the Jasmine King incident and this</p> <p>16 incident involving Mr. Williams, were you aware of</p> <p>17 or retrained on any changes in SWAT policy that had</p> <p>18 been made for CET entries?</p> <p>19 A. Not to my knowledge, sir. I believe</p> <p>20 everything was still the way it's written.</p> <p>21 Q. Do you believe that that change regarding</p> <p>22 CET entry only for no-knock warrants, do you believe</p> <p>23 that happened specifically because of Mr. Williams'</p> <p>24 death on January 10 of 2022?</p> <p>25 MR. ANDERSON: Objection, form</p>
<p>63</p> <p>1 Q. And have there been any changes to CET</p> <p>2 policies for SWAT over the last five years?</p> <p>3 A. In just anything?</p> <p>4 Q. Yeah, in -- when it is allowed to be used?</p> <p>5 A. Oh, CET?</p> <p>6 Q. Yeah, CET.</p> <p>7 A. Yes. It still needs to be -- obviously it</p> <p>8 has to be -- are you talking about CET no-knock?</p> <p>9 What are you -- which one are you referring to, sir?</p> <p>10 Q. Yeah. So I'm talking specifically</p> <p>11 about -- do you use C-E-T or CET?</p> <p>12 A. I don't call it -- we don't call it CET.</p> <p>13 CET.</p> <p>14 Q. CET.</p> <p>15 A. Controlled Entry Tactic.</p> <p>16 Q. Okay. So I'll use the same terminology</p> <p>17 you do so we don't confuse each other.</p> <p>18 A. Cool.</p> <p>19 Q. Over the last five years, have there been</p> <p>20 any changes to SWAT's policies and procedures</p> <p>21 regarding when CET entry is permitted and when it is</p> <p>22 not?</p> <p>23 A. It still -- it still has to go through the</p> <p>24 entire authorization process. So it's still going</p> <p>25 to be through the sergeant, through the lieutenant,</p>	<p>65</p> <p>1 (indiscernible).</p> <p>2 THE REPORTER: Form -- wait. Form?</p> <p>3 MR. ANDERSON: Just form. Whatever I say</p> <p>4 is form.</p> <p>5 THE WITNESS: So the -- do I feel that our</p> <p>6 change came because of this case?</p> <p>7 BY MR. BREEDEN:</p> <p>8 Q. Yes.</p> <p>9 A. No, I do not.</p> <p>10 Q. Okay. Are you aware of another reason why</p> <p>11 that change was made, or you just do not know the</p> <p>12 exact reason for the change?</p> <p>13 A. I do not know the exact reason, sir.</p> <p>14 Q. Okay. Now, no-knock warrants. You've</p> <p>15 been on SWAT since what, October 2010. How many</p> <p>16 no-knock warrants have you executed on SWAT?</p> <p>17 A. One.</p> <p>18 Q. When was that?</p> <p>19 A. Sergeant Bonkavich was still here, so I</p> <p>20 would say within, if I want to give you the best</p> <p>21 guess I can, sir, I'm going to say within the last</p> <p>22 three years.</p> <p>23 Q. And would you agree with me that no-knock</p> <p>24 warrants are quite rare, then?</p> <p>25 A. They're quite rare. It is intel based,</p>

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<p>66</p> <p>1 suspect, violent tendencies, access to, you know, 2 certain weapon systems, flight risk, possibility of 3 hostage situation. Yes. To answer your question, 4 quite rare.</p> <p>5 Q. Are you aware of the Brianna Taylor case 6 in Kentucky?</p> <p>7 A. I'm going to be honest with you. I don't 8 know everything about the Brianna Taylor case. I do 9 not.</p> <p>10 Q. Would you agree with me, though, that that 11 case and that shooting shined a light on no-knock 12 warrants and how dangerous they might be?</p> <p>13 MR. ANDERSON: Objection, form. 14 Go ahead.</p> <p>15 THE WITNESS: I would agree with your 16 question -- with what you're saying, is that that 17 did bring up no-knocks, controlled -- making dynamic 18 entries and stuff. But I don't know anything about 19 that case. I don't even know -- I don't know 20 anything. So I can't -- I can't really elaborate on 21 that.</p> <p>22 BY MR. BREEDEN: 23 Q. Okay. The CET entry in this case was 24 performed at approximately 5:00 a.m. Is it common 25 practice for SWAT to perform missions during early</p>	<p>68</p> <p>1 informal policy of Metro, to serve warrants at that 2 hour?</p> <p>3 A. It's more informal. I mean, I don't think 4 it's -- it's all intel-based, intel-driven. You 5 know. If there's a reason -- like, to give you an 6 example. If there's a reason -- we get an IAP for a 7 narcotics raid. They want a 5:00 a.m. hit. We're 8 going to ask why. Hey, that's when the suspect 9 leaves. We plan on trying to take him away. 10 There's reasons why, that we would utilize that.</p> <p>11 Q. And for the particular SWAT action on 12 January 10, 2022, as far as you know, who made the 13 decision to execute that at 5:00 a.m.?</p> <p>14 A. I do not know, sir.</p> <p>15 Q. What's your understanding of Metro's 16 policy, whether it be formal or informal, about 17 whether a CET entry is permitted to be used for a 18 property only search warrant?</p> <p>19 A. If it's going to be utilized for property 20 only, it has to be approved by the commander. The 21 lieutenant. And there has to be circumstances 22 regarding why. The suspect has access to weapons, 23 violent tendencies -- I thought we were getting 24 attacked. Violent tendencies, severity of the -- 25 severity of the crime. What is -- his prior</p>
<p>67</p> <p>1 morning hours where it's likely people will be 2 asleep?</p> <p>3 A. Yes. It is common.</p> <p>4 Q. Okay. Has that policy changed at all in 5 the last five years?</p> <p>6 A. Has it changed?</p> <p>7 Q. Yes.</p> <p>8 A. No.</p> <p>9 Q. So you're still routinely serving warrants 10 in hours where people are likely to be asleep?</p> <p>11 A. Yes, sir, we are.</p> <p>12 Q. As far as you know, the time for this 13 warrant, 5:00 a.m., that was selected specifically 14 because it was hoped that people inside the 15 apartment would be asleep, right?</p> <p>16 A. Yes, sir. That's a very active complex 17 with people moving around. They wanted to make sure 18 that we, on our approach, were not compromised. So 19 they utilized that time of 5:00 a.m. to make sure 20 that we could have everybody inside.</p> <p>21 Q. As far as you are aware, was there any 22 reason, other than the hope that people would be 23 inside asleep, that the 5:00 a.m. time was selected?</p> <p>24 A. No, I do not.</p> <p>25 Q. And would you describe that as a formal or</p>	<p>69</p> <p>1 criminal history is, his flight risk. Stuff like 2 that. All those things have to go into play and 3 they have to be articulated and explained to the 4 lieutenant, and she gives the ultimate authorization 5 if we're going to utilize a CET on property crime.</p> <p>6 Q. Has -- have the policies or procedures, 7 whether formal or informal, for use of a CET entry 8 on a property only search warrant, have those 9 changed over time?</p> <p>10 A. There has been different changes in our 11 SWAT policies about that. Those decisions have been 12 made by the SWAT commander.</p> <p>13 Q. Were you trained on any change in policy 14 in that regard between the Jasmine King and the 15 Isaiah Williams incidents?</p> <p>16 A. No, there was -- no.</p> <p>17 Q. Okay. And so, is it your understanding 18 that at any time use of CET entry for a property 19 only search warrant has been banned?</p> <p>20 A. If it's going to be utilized, it would 21 have to be approved. But right now, that's -- it 22 wouldn't be something we would do. It would have -- 23 there would have to be circumstances involving the 24 suspect inside. Like, there would have to be a 25 reason that we would go CET on a property crime.</p>

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<p style="text-align: right;">70</p> <p>1 And I highly doubt that would happen now.</p> <p>2 Q. Well -- and so, when you say, "I doubt</p> <p>3 that would happen now," when did that change come</p> <p>4 about?</p> <p>5 A. Within the last year, two years.</p> <p>6 Q. Do you know, was that change precipitated</p> <p>7 by the shooting of Mr. Williams, the change in</p> <p>8 policy?</p> <p>9 A. I think it's a just a change in</p> <p>10 everything. The world, you know, and the nation</p> <p>11 with policing and search warrants and no-knocks. I</p> <p>12 think it's -- it's kind of all been out there.</p> <p>13 Which is to make -- you know, have changes with it</p> <p>14 to -- change policies (indiscernible).</p> <p>15 THE REPORTER: Change policies?</p> <p>16 THE WITNESS: Sorry. Change policies and</p> <p>17 procedures.</p> <p>18 THE REPORTER: Thank you.</p> <p>19 THE WITNESS: So, yeah.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q. And so have you been retrained on any</p> <p>22 changes in use of CET entry since Mr. Williams'</p> <p>23 shooting?</p> <p>24 A. Retrained?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">72</p> <p>1 that for changes in CET entry policy since the</p> <p>2 Jasmine King incident?</p> <p>3 A. We -- during meetings, you know, we've --</p> <p>4 I don't -- I mean, I don't know if anything was</p> <p>5 changed in policy at the time. I think it was still</p> <p>6 all the same. But, like, we -- you know, we</p> <p>7 discussed it. But...</p> <p>8 Q. What has been discussed in meetings</p> <p>9 specifically?</p> <p>10 A. Just make sure that we're reviewing and</p> <p>11 making sure we're looking at the IAPs and asking the</p> <p>12 proper questions of, you know, they added -- the</p> <p>13 extra added in boxes of when was the last time</p> <p>14 suspect was seen at this location, stuff like that.</p> <p>15 They just added extra information on the IAPs for us</p> <p>16 to review.</p> <p>17 Q. Okay. So, you mentioned an example of</p> <p>18 when a suspect was last seen as a location -- as a</p> <p>19 change to the IAPs. What other changes to IAPs have</p> <p>20 occurred in the last five years?</p> <p>21 A. That's all I can recall at the time, right</p> <p>22 now.</p> <p>23 Q. Okay. And the additional box about the</p> <p>24 last time a suspect was seen at a location. Do you</p> <p>25 think that change was made in response to</p>
<p style="text-align: right;">71</p> <p>1 A. So, are you asking me, have we -- have I</p> <p>2 been retrained in the way that we do our tactics or</p> <p>3 just in policies and procedures?</p> <p>4 Q. On any -- well, either, really.</p> <p>5 A. No, we still -- we're still training and</p> <p>6 doing our normal -- doing our normal stuff that we</p> <p>7 do. Now, we're just really making sure that we're</p> <p>8 looking at all the documentation that we're -- being</p> <p>9 sent to -- getting sent from detectives.</p> <p>10 Now, on our IAPs, there are check boxes</p> <p>11 of -- that consist of, is this a body of search</p> <p>12 warrant? Is this evidence only? Is this high risk?</p> <p>13 A low level? A lot of those -- those are the types</p> <p>14 of changes that has occurred. To answer your</p> <p>15 question, yes.</p> <p>16 Q. When those changes come about to a formal</p> <p>17 SWAT policy, how are you as a SWAT officer notified?</p> <p>18 A. How am I notified? There is an -- are you</p> <p>19 talking about -- oh, changes.</p> <p>20 Basically what will happen is, if we get a</p> <p>21 change in our policy, our director or director</p> <p>22 secretary will send us an update and let us know</p> <p>23 that, hey, there's been an update in regards to</p> <p>24 this. Our sergeants will then review it with us.</p> <p>25 Q. Can you recall receiving any updates like</p>	<p style="text-align: right;">73</p> <p>1 Mr. Williams' shooting?</p> <p>2 A. No, I think that was also -- that's with</p> <p>3 everything -- we've -- we've had a lot of, you know,</p> <p>4 warrants that we've served where all the sudden,</p> <p>5 nobody's there, nobody's home. We want to make sure</p> <p>6 when they -- you know, when was the last time the</p> <p>7 suspect was physically seen here at this location.</p> <p>8 Q. Yeah. And do you know much about the</p> <p>9 underlying suspect here, Wattsel Rembert, and when</p> <p>10 he was last seen at the 3050 South Nellis apartment?</p> <p>11 A. I do not, sir.</p> <p>12 Q. Okay. In terms of SWAT actions and</p> <p>13 training, what is calling a tactical? What does</p> <p>14 that mean?</p> <p>15 A. What does tactical mean when we're going</p> <p>16 into an -- okay. So, during our CET operation, the</p> <p>17 tactical call is made for a variety of reasons.</p> <p>18 Delayed breach, we've ran out of manpower, the</p> <p>19 structure is larger than we expected it to be,</p> <p>20 somebody runs. Gunfire. We get into some type of</p> <p>21 shooting.</p> <p>22 An operator has the ability to call, make</p> <p>23 a tactical call if he just flat out doesn't like</p> <p>24 something. Meaning, hey, I think, you know, we're</p> <p>25 being overwhelmed. Multiple people inside of the</p>

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<p style="text-align: right;">74</p> <p>1 structure. We'll put the -- we will immediately</p> <p>2 stop momentum, pull back, hold containment, and</p> <p>3 pull -- start pulling everybody out safely, take</p> <p>4 them into custody. And then we would end up</p> <p>5 clearing the structure slowly and methodically. So</p> <p>6 that is -- we have the ability to go dynamic and</p> <p>7 then slow things down.</p> <p>8 Q. Is that anybody on the SWAT team can</p> <p>9 call --</p> <p>10 A. Anybody can make that call.</p> <p>11 Q. Okay. Have you personally ever made a</p> <p>12 tactical call during a SWAT entry?</p> <p>13 A. I've been on the team 15 years. I could</p> <p>14 tell you I've made thousands -- in the thousands of</p> <p>15 entries. I'm sure there's been a time where I've</p> <p>16 called tactical, yes.</p> <p>17 Q. Can you remember any specific times?</p> <p>18 A. Not to my knowledge, sir.</p> <p>19 Q. Did you ever call tactical on January 10,</p> <p>20 2022?</p> <p>21 A. I already heard the call being stated and</p> <p>22 I heard it being reiterated by numerous officers.</p> <p>23 Q. Okay. We'll talk about that a little</p> <p>24 later. But you did not personally call?</p> <p>25 A. I did not personally call tactical, no.</p>	<p style="text-align: right;">76</p> <p>1 Q. Do you recall a specific lesson plan</p> <p>2 during your SWAT training for knock and announce?</p> <p>3 A. An actual lesson plan for knock and</p> <p>4 announce? I'm sure it's in our CET -- I would -- I</p> <p>5 would assume Zoom it's in there. I haven't read it</p> <p>6 lately.</p> <p>7 Q. Okay. Do you recall --</p> <p>8 A. There is actually -- you know what? There</p> <p>9 is -- actually, the last time I have reviewed it is,</p> <p>10 there is court -- there is case laws in there and it</p> <p>11 does describe that, yes.</p> <p>12 Q. Do you remember the applicable case?</p> <p>13 A. Not off the top of my head.</p> <p>14 Q. Okay. Have you ever been trained on the</p> <p>15 case of -- I believe it's Wilson versus Arkansas?</p> <p>16 A. (Indiscernible.)</p> <p>17 THE REPORTER: Pardon me?</p> <p>18 THE WITNESS: Yes.</p> <p>19 THE REPORTER: Thank you.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q. How about -- who do you recall</p> <p>22 specifically training you regarding knock and</p> <p>23 announce principles?</p> <p>24 A. It's been discussed with us. Kevin</p> <p>25 McCord, Dewane Ferrin. The guys that have, you</p>
<p style="text-align: right;">75</p> <p>1 Q. I want to talk generally about your SWAT</p> <p>2 training regarding knock and announce principles.</p> <p>3 What does knock and announce mean to you?</p> <p>4 A. Knock and announce is basically, we are</p> <p>5 giving the amount of time that the officer feels</p> <p>6 reasonable to let them know that we are the police,</p> <p>7 we are outside, stating their intent -- or stating</p> <p>8 our intent that we are going to -- that we have a</p> <p>9 warrant and that we will be making entry. We would</p> <p>10 like them to cease what they're doing, stop, and</p> <p>11 basically comply with our action.</p> <p>12 Q. Okay. Is there any other part of knock</p> <p>13 and announce that you're aware of?</p> <p>14 A. That we're giving them ample -- that we're</p> <p>15 going to give them a reasonable amount of time --</p> <p>16 we're giving them a reasonable amount of time for</p> <p>17 them to basically comply with our lawful order.</p> <p>18 Q. Okay. Is that all you can recall from</p> <p>19 your training?</p> <p>20 A. At the moment, yeah.</p> <p>21 Q. Would you agree with me that it would be</p> <p>22 important for Las Vegas Metro to train you on knock</p> <p>23 and announce principles if you're going to be part</p> <p>24 of SWAT?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">77</p> <p>1 know, put on that -- that were holding those spots.</p> <p>2 Those lead spots in the training section.</p> <p>3 Q. Are you aware that under Nevada state law,</p> <p>4 it states that officers cannot use force to enter on</p> <p>5 a warrant until they have been refused admittance by</p> <p>6 the occupants of where they're going to search?</p> <p>7 Were you aware of that?</p> <p>8 A. Have I been aware of that?</p> <p>9 Q. Yes.</p> <p>10 A. Yes.</p> <p>11 Q. When were you first aware of that?</p> <p>12 A. Can -- actually, I'm confused on what you</p> <p>13 just said.</p> <p>14 Q. Yeah, let me rephrase it for you.</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Are you aware that under Nevada</p> <p>17 state statutes, or statute, officers are not</p> <p>18 permitted to use force to enter a structure to serve</p> <p>19 a warrant until they have been refused admittance?</p> <p>20 A. That statement, no, I have not been made</p> <p>21 aware of that statement. No.</p> <p>22 Q. So you have never been trained on that</p> <p>23 statement?</p> <p>24 A. No.</p> <p>25 Q. Okay. Are you aware that under federal</p>

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<p>78</p> <p>1 law, officers are not permitted to use force to 2 enter a structure for a warrant until following the 3 announcements, they have waited a reasonable amount 4 of time for persons inside to come to the door, 5 ascertain the officer's identity and purpose, and 6 provide them admittance willfully? 7 MR. ANDERSON: Objection, form. 8 THE WITNESS: I've been made aware of 9 that, yes. 10 BY MR. BREEDEN: 11 Q. Okay. When were you first made aware of 12 that? 13 A. I couldn't -- I -- I don't know. That's 14 stuff that has been discussed with us, you know -- 15 I've been in the unit 15 years. Those are things 16 that have -- discussed with us over the time. I 17 couldn't give you the exact date and time we 18 discussed that. 19 Q. Well, were you aware of that legal 20 requirement prior to the incident with Mr. Williams? 21 A. Yes. 22 Q. Okay. Do you recall who specifically 23 trained you on that requirement? 24 A. No, I do not, sir. 25 Q. Okay. Now, it states a reasonable amount</p>	<p>80</p> <p>1 elapse? 2 A. There's no -- no, there's no set time. I 3 mean, you know, six seconds, eight seconds. It's 4 what we feel is reasonable. 5 Q. Now, you mentioned one of the factors is 6 how much room officers have around them, right? 7 Whether you're in an enclosed hallway or -- 8 A. If we're in that fatal funnel, stuff like 9 that. 10 Q. Would you admit to me that with 11 Mr. Williams, you were not in what would be called a 12 fatal funnel? 13 A. Me personally, no, I was not. They were 14 in a -- they had space where they were working from. 15 Q. It was outside the apartment. 16 A. They were outside, yes. 17 Q. There were ways to retreat safely if 18 something went wrong for officers. 19 A. If they needed to, yes. 20 Q. Okay. Have you ever heard that there's a 21 standard that in most cases, one minute will be a 22 reasonable time for officers to wait after 23 announcing? 24 A. Have I ever -- sorry. 25 MR. ANDERSON: Objection, form.</p>
<p>79</p> <p>1 of time. Is there a rule of thumb or a guide that 2 you use to determine what is reasonable? 3 A. What we use, basically, is, it's going to 4 come down to environmental factors of where we're 5 at. Are we in an enclosed hallway? Do we have 6 somewhere to pull back to? So those things are some 7 of the -- the reason why the time -- how long we're 8 going to wait. The suspect's actions. His -- the 9 severity of the crime. His access to weapons. 10 Those are some of the things that we look at that 11 will dictate our reasonable amount of time. 12 And for an example, like I said is, if 13 we're in an enclosed hallway. Are there occupants 14 in this -- let's say an interior hallway apartment 15 complex that are going to be at risk if this guy 16 starts shooting through the door or becomes 17 noncompliant. Are these -- are we putting these 18 people that are surrounding us at risk? So those 19 are some of the factors that we take into 20 consideration of our reasonable amount of time of 21 how long we're going to wait and continue to 22 announce before we actually push forward with any 23 type of SWAT action. 24 Q. Are you aware of any rule of thumb, 25 though, in terms of seconds or minutes that should</p>	<p>81</p> <p>1 Go ahead. 2 THE WITNESS: Have I ever heard that 3 personally, one minute? No, I have not. 4 THE REPORTER: When it's a good time to 5 take a short break. I mean, if you need to go 6 longer, that's fine. 7 MR. BREEDEN: Yeah, let me just ask him -- 8 I'll take a break within five minutes. 9 THE REPORTER: Perfect, thanks. 10 (Exhibit No. 3 was marked.) 11 THE REPORTER: Exhibit 3. 12 BY MR. BREEDEN: 13 Q. Handing you Exhibit 3. This is an excerpt 14 of the State of Nevada Commission on Peace Officer 15 Standards and Training, Performance Objective 16 Reference Material. 17 Have you ever seen this before I just 18 handed it to you? 19 A. I've never seen this document. 20 Q. Has Metro ever provided this to you, as 21 far as you're aware? 22 A. Not to -- that I'm aware, no. 23 Q. Okay. And at the bottom, you'll see it 24 says note -- I'll just read it as a quote. Quote, 25 "Note. The amount of time that is considered</p>

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<p style="text-align: right;">82</p> <p>1 reasonable will depend on all the circumstances. 2 Approximately one minute would be a safe period in 3 most cases, but it can be less, especially if peace 4 officers know that someone is inside and awake," end 5 quote. 6 So you have not heard this one-minute 7 standard before reviewing this document? 8 A. I've never heard this, no. 9 Q. Okay. And when it refers to, you know, 10 the time can be less, additionally if peace officers 11 know that someone is inside and awake. You did not 12 know who was inside the apartment or whether they 13 were awake on January 10 of 2022, did you? 14 A. No, I did not. 15 Q. Let's go ahead and take a break at this 16 time. 17 A. Okay. 18 THE VIDEOGRAPHER: We are going off the 19 record at 10:32 a.m. 20 (Off record.) 21 THE VIDEOGRAPHER: We are back on record 22 at 10:39 a.m. 23 BY MR. BREEDEN: 24 Q. Officer Bertuccini, we've taken a short 25 break. We're back on the record now, and you're</p>	<p style="text-align: right;">84</p> <p>1 A. Probably the night before the operation. 2 Q. Okay. And when you say the night before, 3 I mean, the operation was at basically 5:00 a.m., so 4 are we talking about ten or five -- 5 A. I would say I got at least a 12-hour 6 notice -- about eight- to ten-hour notice. I 7 couldn't tell you the exact time I got the call 8 that, "Hey, can you come help?" I couldn't tell 9 you. 10 Q. And then when you originally received an 11 e-mail about it, did it include the IAP? 12 A. Yes. The whole entire package was 13 submitted, I believe. I know that there was some -- 14 some -- I recall some documentation, mishaps going 15 back and forth with signatures and stuff like that. 16 But I wasn't involved in any of that. That's the 17 captains and lieutenants handle all that stuff. I 18 know that there was a delayed process in some of the 19 signatures and stuff like that. And authorizations. 20 But I don't -- I don't know any further than that. 21 Q. So, how long before January 10th was this, 22 then? Because I think -- even going back into 23 December of 2021, there were at least applications 24 for warrants going on at that time. So how close 25 was it that you saw these e-mails regarding the IAP?</p>
<p style="text-align: right;">83</p> <p>1 still under oath. 2 Have you ever heard, when we talk about 3 knock and announce, that there's an informal 4 ten-second rule applied by Metro? 5 A. No. 6 Q. I want to talk to you a little bit about 7 the tactical briefing before the January 10th 8 action. 9 When was the first time you ever heard 10 there was going to be a SWAT event there on the 11 morning of January 10th and you were going to be 12 involved? 13 A. So, we have -- any search warrant that 14 comes in, comes through our SWAT warrants e-mail. 15 So all of us get it. So I knew that there was a 16 warrant that was going to be coming in. So I looked 17 at it to see if it was actually going to be on my 18 days. 19 Once I read the IAP and saw that the date 20 was going to be on the other team's days, I was, 21 like, okay, then it's really not my concern. They 22 ended up calling for additional bodies for manpower, 23 so I volunteered to go and help. 24 Q. Okay. So when was that, then, that they 25 called for volunteers and you agreed?</p>	<p style="text-align: right;">85</p> <p>1 A. I couldn't tell you. I apologize, sir. I 2 don't know. 3 Q. Just for some background, by the way, so 4 it's on the record, what does IAP stand for? 5 A. Incident Action Plan. 6 Q. Is that required, to have an approved IAP 7 or Incident Action Plan every time SWAT is deployed? 8 A. Yes. 9 Q. And ultimately, at least for this action 10 concerning Mr. Williams, Lieutenant O'Daniel was the 11 lieutenant who approved the IAP? 12 A. Yes, she approved it. 13 Q. Who's actually responsible for drafting 14 the IAP? 15 A. The detective, sir. 16 Q. And in this case, who was the detective? 17 A. I'll be honest with you, sir. I can't 18 remember. I do not know. 19 Q. Do you remember -- I think it was a 20 Detective Grimmett; does that refresh your memory? 21 A. Jarrod Grimmett? That does refresh -- 22 yes, he's in homicide. 23 Q. So, you had seen -- is it fair to say that 24 maybe within a week or so of this, that there was an 25 IAP, but it was on a day you were not regularly</p>

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<p style="text-align: right;">86</p> <p>1 scheduled, so you didn't think you were going to be 2 involved?</p> <p>3 A. I think that's fair, yeah. I would say 4 within a week I saw it.</p> <p>5 Q. Okay. And then within 12 hours of the 6 actual operation, somebody contacted you and asked 7 if you would volunteer.</p> <p>8 A. That's just an estimated time. But, yes, 9 someone contacted me -- my boss contacted me and 10 said, "Hey, the other team needs some additional 11 bodies to help out with this warrant. Can you get 12 some guys?"</p> <p>13 Q. That's Sergeant Bronkavich (sic)?</p> <p>14 A. Bonkavich, yes, he advised -- yes, sir.</p> <p>15 Q. And so, was your intention that day, then, 16 like, you would essentially go to work early, do 17 this SWAT action, and then work your regular shift, 18 which I think you said started at 2:00?</p> <p>19 A. 2:00 p.m. That was my -- the day of the 20 operation was my RDO, my day off. So I went in on 21 my day off. So what would have occurred is, I would 22 have went in, done the operation, and gone home.</p> <p>23 Q. And when you use the abbreviation RDO, 24 does that mean Regular Day Off?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">88</p> <p>1 address we were going to, I knew that we were going 2 after the investigation of a homicide. I saw the 3 suspects that were identified. I familiarized 4 myself with that. I familiarized myself with the 5 tactical plan prior to the brief. Looked at my job, 6 seeing what my roles and responsibilities were. 7 Made sure that the stun stick was prepped. It was 8 already done for me. That's how I familiarized 9 myself with the actual operation.</p> <p>10 Q. Who prepped the stun stick for you?</p> <p>11 A. I don't -- I don't recall. Whoever the -- 12 so basically, our stun stick resides inside of the 13 equipment truck. So whoever was driving the 14 equipment truck at that time, he -- he probably did 15 it.</p> <p>16 Q. Now, the SWAT tactical briefing actually 17 occurred in a parking lot at Sam's Town; is that 18 accurate?</p> <p>19 A. Yeah. I believe it was the south lot.</p> <p>20 Q. Okay. I think the underlying murder they 21 were investigating also occurred at Sam's Town. 22 Were you aware of that?</p> <p>23 A. I wasn't aware of that.</p> <p>24 Q. As far as you know, is that just a 25 coincidence? Did they select that intentionally?</p>
<p style="text-align: right;">87</p> <p>1 Q. And so, an IAP had circulated by e-mail. 2 Did you read the IAP?</p> <p>3 A. No, I did not.</p> <p>4 Q. Did you read it at all before you went to 5 the tactical review?</p> <p>6 A. No, I did not. I'll be honest with you, 7 sir. I skimmed through it, I looked -- once I 8 looked at the date and saw that they -- our team was 9 not needed, I was, like, hey -- I did not.</p> <p>10 Q. So just to be clear, then, before, you 11 know, 5:00 a.m. on January 10, 2022, when the 12 shooting occurred, approximately, you had not 13 reviewed the IAP.</p> <p>14 A. No, sir.</p> <p>15 Q. And you had not reviewed the actual search 16 warrant.</p> <p>17 A. No, sir, I did not.</p> <p>18 Q. And you had not reviewed the detective's 19 application for a search warrant.</p> <p>20 A. No, sir, I did not.</p> <p>21 Q. Okay. Is it fair to say, then, that all 22 of your information about what was to be done and 23 how, came from the SWAT tactical briefing?</p> <p>24 A. What I did is, the minute that I arrived, 25 I went up, read the information page so I knew the</p>	<p style="text-align: right;">89</p> <p>1 A. I believe that maybe -- I guess. I don't 2 know. I'm sure that incident happened well before 3 that, they selected that brief -- I don't know.</p> <p>4 Q. Yeah. The crime that they were 5 investigating occurred several months prior, and it 6 was -- it was a shooting outside of a casino.</p> <p>7 Were you aware of any of the facts of the 8 underlying crime before you took part in this search 9 warrant?</p> <p>10 A. I was not aware of it until I took part in 11 the search warrant and Detective Grimmatt gave the 12 prebrief before they started the tactical plan.</p> <p>13 Q. Okay. And so you indicated that Detective 14 Grimmatt did the briefing. Did he take the lead on 15 the briefing?</p> <p>16 A. They asked him to do it. He basically 17 explained everything.</p> <p>18 Q. Okay. Was Sergeant Garth Finley also 19 present?</p> <p>20 A. Sergeant Garth Finley was there, yes, sir.</p> <p>21 Q. And did he also conduct the briefing?</p> <p>22 A. He didn't do anything. He was one of the 23 team leaders at the time. I don't believe he spoke. 24 I can't recall.</p> <p>25 Q. So, if I wanted to sit down and talk to</p>

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<p style="text-align: right;">90</p> <p>1 the person who actually was in charge of doing the</p> <p>2 tactical briefing, that was Detective Grimmert?</p> <p>3 A. The tactical briefing?</p> <p>4 Q. Yes.</p> <p>5 A. He just basically briefed the information</p> <p>6 and the circumstances surrounding the case and why</p> <p>7 we were there. The tactical briefing was done by</p> <p>8 the reconnaissance officers and then Assistant Team</p> <p>9 Leader Warren -- Werner.</p> <p>10 Q. Okay. And who were the reconnaissance</p> <p>11 officers?</p> <p>12 A. It was several. Because we were going to</p> <p>13 hit -- we were actually going to serve two warrants,</p> <p>14 I believe, simultaneously. But then they decided to</p> <p>15 only do one structure. So I believe there was four</p> <p>16 officers that were involved in that recon. I</p> <p>17 believe it was Officer Brosnahan, who is now</p> <p>18 Sergeant Brosnahan, Officer Kubla was involved,</p> <p>19 Officer Hoskins, who is now a sergeant was involved.</p> <p>20 I know that Officer Werner, I believe, did go. And</p> <p>21 I'll be honest with you, sir, if anyone else went, I</p> <p>22 don't -- I don't know. Those are the four I can</p> <p>23 honestly tell you were involved.</p> <p>24 Q. The person that conducted the SWAT portion</p> <p>25 of the tactical briefing, though, that was Assistant</p>	<p style="text-align: right;">92</p> <p>1 Q. Werner, sorry. W-a-r-n-e-r?</p> <p>2 A. No, sir. W-e-r-n-e-r.</p> <p>3 Q. Okay. So, as best as you can recall, you</p> <p>4 know, even verbatim if you can recall, what were you</p> <p>5 told by Officer Werner?</p> <p>6 A. Officer Werner, when I went over, we</p> <p>7 actually started talking about the diagram. Being</p> <p>8 an ATL, I'm actually the senior ATL. I was talking</p> <p>9 to him about his approach and looking at things,</p> <p>10 asking questions. Just like, hey, what is your</p> <p>11 thoughts with, you know, breach and all this.</p> <p>12 I was, like, "Hey, where do you need me to</p> <p>13 be?" He showed me in the stack where he wanted me</p> <p>14 to be. We just kind of went over the diagram</p> <p>15 together, went over where I was going to be in the</p> <p>16 stack. And then where I would be placing the stun</p> <p>17 stick.</p> <p>18 Q. And when you say "the stack," you just</p> <p>19 mean --</p> <p>20 A. Our entry line.</p> <p>21 Q. The order of --</p> <p>22 A. The order of our entry line, yes, sir.</p> <p>23 Sorry. SWAT, then go. My bad.</p> <p>24 Q. Were you told whether you were there to</p> <p>25 serve a search warrant or an arrest warrant?</p>
<p style="text-align: right;">91</p> <p>1 Team Leader Warren (sic)?</p> <p>2 A. The reconnaissance officers went over the</p> <p>3 information page, the intel. They displayed -- they</p> <p>4 explained the diagram, the structure. And then it</p> <p>5 was turned over to Officer Werner.</p> <p>6 Q. When you talk about the information page,</p> <p>7 is that a single page?</p> <p>8 A. It's one page consisting of our event</p> <p>9 number, the address of the location that we're going</p> <p>10 to, the detective that submitted the search warrant,</p> <p>11 the crime, any weapons that are involved, any</p> <p>12 suspects that are involved, kids are involved, dogs,</p> <p>13 cameras, fortifications, our route, and I already</p> <p>14 covered the location.</p> <p>15 Q. Is it on, like, a little 8 by 10 sheet of</p> <p>16 paper?</p> <p>17 A. I would say -- we use poster paper, like,</p> <p>18 large white paper. I mean -- you know.</p> <p>19 Q. Who's responsible for drafting the</p> <p>20 information page?</p> <p>21 A. Usually the reconnaissance officers.</p> <p>22 That's their responsibility.</p> <p>23 Q. Okay. So what do you remember being told</p> <p>24 by Officer Warren -- it's officer, not sergeant?</p> <p>25 A. He's Officer Werner, yes.</p>	<p style="text-align: right;">93</p> <p>1 A. I believe that we were doing a -- just a</p> <p>2 search warrant, not an arrest warrant.</p> <p>3 Q. Property only.</p> <p>4 A. I was not told that. I know that we were</p> <p>5 going after two people that are inside that were</p> <p>6 involved in a murder case, or a murder</p> <p>7 investigation. And that there were weapons inside.</p> <p>8 That it was just not a search warrant for property.</p> <p>9 I mean, it was a search warrant for property, but we</p> <p>10 had two heavily armed suspects inside that were</p> <p>11 possibly wanted for homicide.</p> <p>12 Q. Okay. But were you aware that there was</p> <p>13 no arrest warrant at the time for either suspect?</p> <p>14 A. Yes, I was aware of that.</p> <p>15 Q. Okay. And just to put names to these</p> <p>16 people. The names of the suspects were Wattsel</p> <p>17 Rembert and Corvel Fisher?</p> <p>18 A. I believe so, yes, those were the names.</p> <p>19 Q. Okay. Were there any other suspects that</p> <p>20 you can recall being discussed?</p> <p>21 A. Unless I saw the information page, I can't</p> <p>22 remember.</p> <p>23 Q. I have it here in a minute or two --</p> <p>24 A. Okay.</p> <p>25 Q. -- and we'll look at it.</p>

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<p style="text-align: right;">94</p> <p>1 In fact, why don't I -- let's go ahead and</p> <p>2 do that now.</p> <p>3 (Exhibit No. 4 was marked.)</p> <p>4 THE WITNESS: Thank you, ma'am.</p> <p>5 BY MR. BREEDEN:</p> <p>6 Q. So this will be labeled Exhibit 3, I</p> <p>7 believe.</p> <p>8 THE REPORTER: 4.</p> <p>9 BY MR. BREEDEN:</p> <p>10 Q. 4, sorry, to this deposition. And I'll</p> <p>11 just say for the record, this is Bates labeled LVMPD</p> <p>12 4377. This is a page from the CIRT report</p> <p>13 investigating this incident.</p> <p>14 You see a picture there. Is this the</p> <p>15 information page you were referring to?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, do you know who took this</p> <p>18 picture?</p> <p>19 A. I don't remember who took this picture.</p> <p>20 Q. Did you see anyone taking pictures during</p> <p>21 the briefing?</p> <p>22 A. I'm sorry, sir?</p> <p>23 Q. Did you see anyone taking pictures during</p> <p>24 the briefing?</p> <p>25 A. Yeah, we always have one of our guys take</p>	<p style="text-align: right;">96</p> <p>1 there were actually intended to be two locations.</p> <p>2 The 3050 South Nellis and 4475 Jimmy Durante</p> <p>3 Boulevard. And it is a bit difficult to read the</p> <p>4 information page from the picture. But if you look</p> <p>5 above it, it's summarized, and it indicates that on</p> <p>6 the information page, kids, elderly, surveillance,</p> <p>7 and fortification were listed as no. Dogs were</p> <p>8 listed as unknown. And guns were listed as unknown.</p> <p>9 With -- to the next -- beside the guns unknown, was</p> <p>10 in parentheses, small caliber used in crime. Do you</p> <p>11 see that?</p> <p>12 A. I can -- I mean, you can't read it, but I</p> <p>13 can see that, yes.</p> <p>14 Q. Do you recall all of that from the</p> <p>15 briefing?</p> <p>16 A. Yeah. I mean, it's right here, yes.</p> <p>17 Q. Okay. Did anything about that strike you</p> <p>18 as unusual?</p> <p>19 A. Anything strike -- reading that? No, not</p> <p>20 to my -- I mean, no.</p> <p>21 Q. If it says surveillance no, how could</p> <p>22 anyone know whether kids or the elderly were inside?</p> <p>23 A. So basically, there is questions that are</p> <p>24 asked from the -- you know, the detectives. We also</p> <p>25 look for any type of signs of kids. Kids' toys</p>
<p style="text-align: right;">95</p> <p>1 photos after. One of our -- it depends. Equipment</p> <p>2 truck guy. Someone always takes photos of the</p> <p>3 briefings.</p> <p>4 Q. Okay. Did anyone have their body-worn</p> <p>5 camera on during the briefing?</p> <p>6 A. No.</p> <p>7 Q. Okay. And why are you so certain of that?</p> <p>8 A. We don't do that.</p> <p>9 Q. Why not?</p> <p>10 A. We don't video our briefings. We don't --</p> <p>11 we don't do that. We just don't.</p> <p>12 Q. Okay. Is it policy not to record the</p> <p>13 briefings?</p> <p>14 A. It's not policy, we just don't. I don't</p> <p>15 know -- I mean, I can't give you an exact answer why</p> <p>16 we don't, we just don't.</p> <p>17 Q. Okay. Have you ever seen a tactical</p> <p>18 briefing where it was recorded on the body camera</p> <p>19 video?</p> <p>20 A. As long as I've been in SWAT, no. I've</p> <p>21 done -- I've done operations with the FBI, I've done</p> <p>22 operations with North Las Vegas, Henderson, I've</p> <p>23 been around other SWAT teams. I've never seen a</p> <p>24 briefing filmed.</p> <p>25 Q. Okay. So you mentioned there were --</p>	<p style="text-align: right;">97</p> <p>1 outside, curtains, child curtains, you know, a</p> <p>2 Barney curtain or something like that. We look for</p> <p>3 ramps. You know, ramps at the doorway for</p> <p>4 wheelchair access or something like that. Elderly,</p> <p>5 they said based on the detectives' surveillance,</p> <p>6 they've never seen any elderly or children come or</p> <p>7 go from that target residence. That's why they</p> <p>8 probably put no.</p> <p>9 Q. Well, it says surveillance, no. Doesn't</p> <p>10 that mean to you that they didn't do surveillance?</p> <p>11 A. Their surveillance in here is cameras.</p> <p>12 That's what they're talking about, surveillance of</p> <p>13 cameras. Any cameras that would obstruct our</p> <p>14 approach. That's what that means.</p> <p>15 Q. And what was your understanding of what</p> <p>16 was meant by guns unknown, parentheses, small</p> <p>17 caliber used in crime, close parentheses?</p> <p>18 A. That basically would let me know that</p> <p>19 there is a weapon that is outstanding, a small</p> <p>20 caliber handgun, that was used in the commission of</p> <p>21 a crime.</p> <p>22 We also were -- you know, now that as I'm</p> <p>23 kind of getting a little bit more reacclimated to</p> <p>24 it, I recall them also briefing out Rumpert (ph) was</p> <p>25 his name? Shumpert?</p>

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<p style="text-align: right;">98</p> <p>1 Q. Rembert.</p> <p>2 A. Rembert. Had photos posted, I believe, of</p> <p>3 him holding an MP5 assault rifle. I remember that</p> <p>4 now that I'm getting refreshed with some of this</p> <p>5 stuff, is that that information was given to us.</p> <p>6 Q. Do you remember who gave you that specific</p> <p>7 information?</p> <p>8 A. I believe -- I can't -- I'm going to be</p> <p>9 honest with you, I don't remember -- I can't</p> <p>10 remember if it was Officer Grimmert -- or Detective</p> <p>11 Grimmert or if it was the recon officers when they</p> <p>12 went through their information page. But I remember</p> <p>13 that information being passed to us.</p> <p>14 Q. Was it your understanding that if during</p> <p>15 the search warrant you were to encounter either</p> <p>16 suspect, Mr. Fisher or Mr. Rembert, that you were to</p> <p>17 arrest them, take them into custody?</p> <p>18 A. We basically were going to detain them.</p> <p>19 If they were located inside, they would be detained.</p> <p>20 They would be passed off to detectives. They would</p> <p>21 be doing the investigations and/or arrests at that</p> <p>22 time. Our job is to basically make entry into the</p> <p>23 structure, take anyone into custody or detain them</p> <p>24 that is inside, render it safe for the detectives to</p> <p>25 do their investigation. If they're going to make</p>	<p style="text-align: right;">100</p> <p>1 but I don't recall --</p> <p>2 Q. Okay --</p> <p>3 A. -- at this moment.</p> <p>4 Q. Do you remember what property was to be</p> <p>5 searched for?</p> <p>6 A. A firearm. And I can't remember -- if</p> <p>7 it's on here, if there was clothing or anything.</p> <p>8 But I remember it was a firearm and possibly</p> <p>9 clothing. It would have to be -- I would have to</p> <p>10 look to see what the evidence was.</p> <p>11 Q. Do you remember what type of firearm?</p> <p>12 A. All I remember they briefed was a small</p> <p>13 caliber.</p> <p>14 Q. Small caliber handgun?</p> <p>15 A. Yeah.</p> <p>16 Q. And -- so you were assigned to deploy the</p> <p>17 stun stick. Who informed you of that?</p> <p>18 A. Officer Werner. That's -- that was in his</p> <p>19 tactical plan.</p> <p>20 Q. And who made that decision that you</p> <p>21 specifically would deploy the stun stick? Was that</p> <p>22 also Officer Werner?</p> <p>23 A. Yeah. He just needed extra -- additional</p> <p>24 bodies for those positions.</p> <p>25 Q. Okay. Now, when you do these, is it</p>
<p style="text-align: right;">99</p> <p>1 arrests, that's -- I don't -- I don't deal with</p> <p>2 that.</p> <p>3 Q. Okay. Well, what -- did you have an</p> <p>4 expectation that the suspects were going to be</p> <p>5 arrested if they were found inside?</p> <p>6 A. If there -- if they were going to be found</p> <p>7 inside, that was going to be the detectives'</p> <p>8 decision if they were going to be arrested or not.</p> <p>9 We were never told that -- you know, I don't recall</p> <p>10 there being any PC on them at the time. I don't --</p> <p>11 I don't know. I don't want to just misspeak on</p> <p>12 something that I don't remember or recall.</p> <p>13 Q. Okay. Well, I want to be clear about</p> <p>14 what -- what you do recall. Were you told there was</p> <p>15 an arrest warrant?</p> <p>16 A. I'm reading here. I -- that someone -- I</p> <p>17 don't know if that was -- who had the answer here,</p> <p>18 if this was me or Officer Werner. But I know</p> <p>19 that -- I don't recall. I don't recall.</p> <p>20 Q. Yeah. Because I want to know what you</p> <p>21 recall, not what's on some CIRT report or somebody</p> <p>22 else testified --</p> <p>23 A. If that was -- I mean, you know, I had</p> <p>24 that CIRT report or CIRT interview two years ago. I</p> <p>25 mean, if it was in front of me I could help that,</p>	<p style="text-align: right;">101</p> <p>1 typical that, you know, one officer will have the</p> <p>2 battering ram, he's, like, the battering ram</p> <p>3 specialist; one will be, like, the stun stick</p> <p>4 specialist; one will be a ballistic shield person.</p> <p>5 Or do the roles change?</p> <p>6 A. We are all -- we are all very, you know,</p> <p>7 confident in all of it. All the guys can do every</p> <p>8 job. When we go into explosive work, we have</p> <p>9 breachers that mainly do that. So there's no, like,</p> <p>10 hey, this is the superstar stun stick guy. This is</p> <p>11 the best ram guy. We're all capable doing all jobs.</p> <p>12 And that usually is decided by the ATL. So we don't</p> <p>13 have, like, specific guys that only ram doors, only</p> <p>14 utilize Shok Lock, only use stun stick. No.</p> <p>15 Q. Is there any reason you're aware of why</p> <p>16 you were specifically selected for the stun stick?</p> <p>17 A. I do not know.</p> <p>18 Q. Okay. And then during the tactical</p> <p>19 briefing, what was decided as to when you would</p> <p>20 deploy the stun stick?</p> <p>21 A. After the second announcement.</p> <p>22 Q. Okay. So when you say the announcement,</p> <p>23 was it discussed specifically what the announcement</p> <p>24 would be, like, the exact language?</p> <p>25 A. The exact language would be the entire</p>

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<p style="text-align: right;">102</p> <p>1 address and then police department, search warrant. 2 Full two announcements of that. 3 Q. Okay. So after the second time, police 4 officer, search warrant is stated, it was preplanned 5 that you would insert the stun stick and deploy it 6 at that time? 7 A. Including the address. With the -- 8 including the address, yes. So after all that was 9 put out two times, I would then deploy the stun 10 stick, I would insert it through the window, yes. 11 Q. And was the -- when the address was 12 announced, was it also intended that that would 13 include the apartment number? 14 A. Yes, sir. 15 Q. Okay. Why would it be important to 16 include the apartment number with that announcement? 17 A. So that the people know that are inside. 18 And also surrounding areas. Because 5:00 in the 19 morning, now people are going to start hearing this, 20 waking up, and want to come out. 21 Q. Okay. So there were a lot of apartments 22 within earshot. And the purpose of announcing the 23 specific apartment number is to -- to make sure 24 people know what apartment police are there for, 25 right?</p>	<p style="text-align: right;">104</p> <p>1 search warrant, and you heard somebody inside 2 saying, all right, I'll be there in a second. 3 Hypothetically, what would you have done? 4 A. If I heard someone say that? 5 Q. Yes. 6 A. Coming out. Like, hey, I'm walking out? 7 Q. Yeah. 8 A. I would advise that. I would advise that 9 on the radio, what I'm hearing. 10 Q. Would you have still inserted the stun 11 stick after the second announce? 12 A. It would depend. It would -- the 13 situation would depend. I mean, what if he's just 14 baiting us? It would depend. If I could see that, 15 I don't know. I would allow them -- I would let 16 them know what I'm hearing. I would let -- hey, do 17 you still -- I would advise, do you still want the 18 stun stick to go? If I'm able to see something, he 19 tries to arm himself, maybe he's trying to flee, 20 then I would have probably inserted the stun stick 21 to draw attention away from the team. 22 Q. Was it discussed at the tactical briefing 23 who would make the initial announcement? 24 A. Yes. Officer Werner told that -- I 25 believe it was going to be Sergeant Backman that</p>
<p style="text-align: right;">103</p> <p>1 A. Yes, sir. There's an apartment directly 2 above him. 3 Q. Was it discussed at all, any factors that 4 might stop or delay deploying the stun stick? 5 A. Any factors that would stop it? 6 Q. Yes. 7 A. So, basically, if I made an approach, and 8 I could see that there was any signs of kids, any 9 signs of -- anything that would cause any type of 10 safety issue, I would immediately call out "no bang" 11 or I would air burst it above. And I would 12 basically just explain and articulate to them why I 13 didn't do it. For safety reasons or I observed a 14 child. There could be a bassinet on the other side. 15 Yeah. I'm allowed -- I mean, we are all given 16 that -- that reason if we need to put a stop to 17 that. 18 Q. Okay. But it was preplanned that there 19 would be no delay between the second announcement of 20 police officer, search warrant and deployment of the 21 stun stick. 22 A. Unless I saw something, no. 23 Q. Hypothetically, what if they had done the 24 first announcement, you know, they finish police 25 officer search -- the address, police officer,</p>	<p style="text-align: right;">105</p> <p>1 made all verbal announcements from the bullhorn. 2 Q. Now, and we can listen to this later if 3 you really wanted to. But I'll represent to you 4 that I do think it was Sergeant Backman, and he had 5 a bullhorn. 6 A. Yeah. 7 Q. And he does an initial announcement with 8 an address and police officer, search warrant. And 9 then after that, all the other officers also begin 10 saying police officer, search warrant. Was that 11 discussed at tactical briefing, that the other 12 officers would also say police officer, search 13 warrant? 14 A. That's basically an SOP for us. Is once 15 the announcements start and we're getting ready to 16 make entry, we will continue to verbalize that as 17 we're making entry. 18 Q. You didn't verbalize that, did you? 19 A. No. 20 Q. Why not? 21 A. Because the guys were already at that 22 point inside. I don't -- that's -- I don't say 23 police, search warrant. My job is to stun the 24 window. 25 Q. Is part of the reason because you did not</p>

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<p style="text-align: right;">106</p> <p>1 want to disclose your presence at the window?</p> <p>2 A. No, I pretty much -- once I was up there,</p> <p>3 he's going to know that we're there once I broke the</p> <p>4 window anyway. Or someone is going to -- my</p> <p>5 presence is known by the insertion of the stun</p> <p>6 stick.</p> <p>7 Q. Was this specifically discussed, that you</p> <p>8 would not take part in the announcements?</p> <p>9 A. No, it wasn't discussed. But usually the</p> <p>10 guys that are on the stun stick are not making the</p> <p>11 verbal announcements. Because we are within close</p> <p>12 proximity of each other, the announcements portion</p> <p>13 of it would be covered by the -- the entry team.</p> <p>14 Q. Okay. Did anyone discuss at the tactical</p> <p>15 briefing the amount of time in seconds that should</p> <p>16 elapse after the announcements to allow somebody to</p> <p>17 either admit or deny the officers' entry?</p> <p>18 A. To answer your question, are we talking</p> <p>19 about timing, how many seconds? No. That was never</p> <p>20 discussed, sir.</p> <p>21 Q. Okay. Well, the plan was to not allow</p> <p>22 that, wasn't it?</p> <p>23 A. Not allow what, sir?</p> <p>24 Q. Not allow any time for somebody to come to</p> <p>25 the door and admit or refuse entry, right? That was</p>	<p style="text-align: right;">108</p> <p>1 Q. Your act of breaking the window with the</p> <p>2 stun stick is the first act of physical force to</p> <p>3 enter that apartment, isn't it?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. It happened even before the first</p> <p>6 use of the battering ram on the front door, correct?</p> <p>7 A. And that was the plan, yes, sir.</p> <p>8 Q. Okay. So that was preplanned?</p> <p>9 A. Yes, sir.</p> <p>10 Q. So how long was it planned before you</p> <p>11 entered the stun stick before they would use the</p> <p>12 battering ram at the front door?</p> <p>13 A. So, the plan was, is it would be two full</p> <p>14 announcements. I would insert the stun, clear it,</p> <p>15 initiate the stun, and then the breach would start</p> <p>16 to work.</p> <p>17 Q. And no amount of time between the second</p> <p>18 announcement and insertion of the stun stick. It</p> <p>19 was supposed to happen simultaneously?</p> <p>20 A. No. Distract would go, breach would then</p> <p>21 start. That was the plan.</p> <p>22 Q. I'm sorry, I think you may have</p> <p>23 misunderstood my question.</p> <p>24 A. Okay.</p> <p>25 Q. The plan was, after the second</p>
<p style="text-align: right;">107</p> <p>1 the plan, wasn't it?</p> <p>2 A. The plan was basically for them to</p> <p>3 verbalize, allow them -- letting them know that the</p> <p>4 police is outside and we're only going to wait, like</p> <p>5 we said, a reasonable amount of time. And at that</p> <p>6 point, we end up breaching the door and go.</p> <p>7 Q. Well, I mean, you said, and I wrote it</p> <p>8 down, in your earlier testimony, the very point of</p> <p>9 the CET entry is to use speed, surprise, and</p> <p>10 overwhelming action. You said that earlier, right?</p> <p>11 A. Yeah.</p> <p>12 Q. So, if you're using speed, surprise, and</p> <p>13 overwhelming action, how can a person inside have</p> <p>14 any reasonable amount of time to come to the door</p> <p>15 and respond to the officers?</p> <p>16 A. That's once -- speed, surprise, and</p> <p>17 overwhelming action is as we're making our entry in.</p> <p>18 That's -- that's what our speed is, is inside.</p> <p>19 Our -- our surprise is that, you know, basically</p> <p>20 utilizing the stuns and distracts to disorient and</p> <p>21 drive their attention away from us. And then that</p> <p>22 overwhelming action is, you know, the overwhelming</p> <p>23 presence of police department, search warrant, the</p> <p>24 distracts continuing to go, you know, the dynamic</p> <p>25 movement inside of the house.</p>	<p style="text-align: right;">109</p> <p>1 announcement, no additional time would be allowed to</p> <p>2 the people inside. Immediately after the second</p> <p>3 announcement, you would insert the stun stick.</p> <p>4 A. Immediately after the second announcement</p> <p>5 my job was to insert the stun stick, yes.</p> <p>6 Q. Who told you that?</p> <p>7 A. The ATL and the sergeant who approved it.</p> <p>8 Q. Okay. So you're talking about Werner and</p> <p>9 Backman?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Are you talking also about Sergeant</p> <p>12 Finley?</p> <p>13 A. Sergeant Finley, I'm sure he was involved</p> <p>14 in it. I know that he was the primary sergeant</p> <p>15 there, but I know that Sergeant Backman, Sergeant</p> <p>16 Werner discussed the tactical plan. Sergeant Finley</p> <p>17 then kind of approved -- like, not approved it,</p> <p>18 because he doesn't have that authorization to</p> <p>19 approve it. He over- -- he was more of the</p> <p>20 oversight of that.</p> <p>21 Q. Did Sergeant Backman deliver any portion</p> <p>22 of the tactical briefing?</p> <p>23 A. Any portion of it?</p> <p>24 Q. Yes.</p> <p>25 A. No, sir.</p>

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<p style="text-align: right;">110</p> <p>1 Q. Okay. And it was preplanned that you</p> <p>2 would use -- or the SWAT team was going to use a CET</p> <p>3 entry as opposed to a Surround and Call-Out, or SACO</p> <p>4 entry, right?</p> <p>5 A. Surround and Call-Out, yes, sir.</p> <p>6 Q. Okay. And so, to your knowledge, who made</p> <p>7 that decision?</p> <p>8 A. So basically, the reconnaissance officers</p> <p>9 would go back to Officer Werner, discuss what they</p> <p>10 saw, and then Officer Werner would basically present</p> <p>11 a CET plan to the sergeant, who would then push that</p> <p>12 up to the lieutenant, and it would get approved.</p> <p>13 Q. Did you ever question why a CET entry was</p> <p>14 being used as opposed to a Surround and Call-Out?</p> <p>15 A. No, I did not. The reason why I did not</p> <p>16 is, I was able to -- I saw the aerial photos. I saw</p> <p>17 the structure that they were looking at. I</p> <p>18 understood why they were doing what -- a CET opposed</p> <p>19 to Surround and Call-Out.</p> <p>20 Q. And so, in your opinion, what did you see</p> <p>21 that led you to believe that CET was better than</p> <p>22 Surround and Call-Out?</p> <p>23 A. It was going to be very, very difficult</p> <p>24 for them to pull up armored vehicles. They had --</p> <p>25 they basically had a -- I believe it was an ARCO</p>	<p style="text-align: right;">112</p> <p>1 Q. Were you told during the tactical briefing</p> <p>2 that suspect Fisher was wearing an ankle bracelet?</p> <p>3 A. I was aware of that -- or not aware of</p> <p>4 that, I was briefed that, yes.</p> <p>5 Q. And so did that, then, lead you to believe</p> <p>6 that Fisher was not actually inside the apartment?</p> <p>7 A. We -- made us believe that Fisher was not,</p> <p>8 but -- I apologize for saying his name incorrectly.</p> <p>9 Shumpert, Rumpert.</p> <p>10 Q. Wattsel Rembert.</p> <p>11 A. Rembert. That was still outstanding and</p> <p>12 could possibly still be inside.</p> <p>13 Q. Did anyone brief you on the last time he</p> <p>14 was seen at that apartment?</p> <p>15 A. No, sir.</p> <p>16 Q. Did anyone brief you on whether he had</p> <p>17 ever been seen at that apartment?</p> <p>18 A. No, sir. It was actually -- I take that</p> <p>19 back. I believe officer -- the recon officers</p> <p>20 did -- did state that -- to my recollection, they</p> <p>21 did state that he was seen, you know, several weeks</p> <p>22 prior.</p> <p>23 Q. What advantages would a Surround and</p> <p>24 Call-Out have over a CET entry?</p> <p>25 A. What advantages would it --</p>
<p style="text-align: right;">111</p> <p>1 station. I don't know if -- I can't remember if it</p> <p>2 was to the north or to the south. But there was an</p> <p>3 ARCO gas station that was -- you know, it's 5:00</p> <p>4 a.m., people are going to get coffee, people are</p> <p>5 going to get gas, there was active people over</p> <p>6 there.</p> <p>7 We would literally have to put a piece of</p> <p>8 armor in that parking lot. We would have to shut</p> <p>9 down and put a piece of armor off of -- I can't</p> <p>10 recall what the back street was, if that was Pecos</p> <p>11 or Nellis. It was wide open back there. There was</p> <p>12 so much space to where we couldn't actively contain</p> <p>13 the individuals without cutting down some wrought</p> <p>14 iron gates and pushing the armor in.</p> <p>15 So I understood their thought process and</p> <p>16 their logic behind utilizing a CET versus a Surround</p> <p>17 and Call-Out. Because of the environmental factors</p> <p>18 of trying to contain the structure.</p> <p>19 Q. And is that the only basis for your</p> <p>20 opinion?</p> <p>21 A. Right now, yes. Oh, yeah. And basically,</p> <p>22 they opted to go with the CET because of the two</p> <p>23 suspects inside. The violent tendencies, the</p> <p>24 severity of the crime, access to weapons. All</p> <p>25 those.</p>	<p style="text-align: right;">113</p> <p>1 Q. Yes.</p> <p>2 A. -- have had?</p> <p>3 Well, basically, we would -- like I said,</p> <p>4 in a Surround and Call-Out, we would have landed</p> <p>5 armored vehicles. It would have been very tough to</p> <p>6 contain and utilize low lethality options if he was</p> <p>7 to come out and try to flee. Especially running</p> <p>8 towards a -- you know, Pecos. He had a lot of</p> <p>9 avenues of escape. It would have -- you know,</p> <p>10 you're talking about, you know, what advantage it</p> <p>11 would have gave us. The only thing it would have</p> <p>12 really gave us is us slowing the action down and</p> <p>13 trying to attempt to get anyone in custody -- take</p> <p>14 anyone out of the residence and get them into</p> <p>15 custody.</p> <p>16 Q. Would have provided more time for people</p> <p>17 inside, wouldn't it?</p> <p>18 A. Would have provided more time for people,</p> <p>19 also, that if they're committed to arm themselves</p> <p>20 and fortify their position and location. Because at</p> <p>21 some point in time, we were going to have to go up</p> <p>22 there and breach that door.</p> <p>23 Q. You would concede this is a small</p> <p>24 apartment with only a patio door, a front entrance,</p> <p>25 and a couple of windows, right?</p>

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<p style="text-align: right;">114</p> <p>1 A. Yes.</p> <p>2 Q. It's not a huge warehouse, is it?</p> <p>3 A. No, it's not a huge warehouse. But I've</p> <p>4 also, sir, I've been involved in a lot of operations</p> <p>5 where we have done Surround and Call-Outs and people</p> <p>6 have tunneled through sheetrock. That was just</p> <p>7 drywall and sheetrock that separated apartment to</p> <p>8 apartment.</p> <p>9 So if these guys were looking to escape</p> <p>10 and go through -- we've seen this happen. We've had</p> <p>11 this happen to us. And now we have a potential</p> <p>12 hostage situation, with the potential of an armed</p> <p>13 suspect that's wanted for homicide. So that's</p> <p>14 another reason why they opted to go with the CET,</p> <p>15 sir.</p> <p>16 Q. Did the briefing indicate who was actually</p> <p>17 inside the apartment?</p> <p>18 A. Who could have been inside the apartment?</p> <p>19 No.</p> <p>20 Q. Did it indicate that anyone had actually</p> <p>21 been seen inside the apartment?</p> <p>22 A. Did the briefing?</p> <p>23 Q. Yes.</p> <p>24 A. They -- you know, at, like, the moment of</p> <p>25 us going, is that what you're asking me?</p>	<p style="text-align: right;">116</p> <p>1 that ARCO station, this is the parking lot, I don't</p> <p>2 know if they would have been able to get a BearCat</p> <p>3 or any piece of armor around that to provide them</p> <p>4 adequate cover and still be able to see the door.</p> <p>5 Because from their distance from that</p> <p>6 parking lot to the door was a good 20, 30 yards,</p> <p>7 maybe more. And that's just -- I'm just trying to</p> <p>8 speculate now off the top of my head.</p> <p>9 The guys that were on the back, the rear</p> <p>10 containment where I was off the stun stick, the guys</p> <p>11 that were off the 3-4 corner, --</p> <p>12 THE REPORTER: The guys?</p> <p>13 THE WITNESS: -- which --</p> <p>14 THE REPORTER: -- off the 3-4 corner?</p> <p>15 THE WITNESS: I'm sorry. 3-4 corner,</p> <p>16 which would be the furthest north corner. I don't</p> <p>17 know if we would have been able to -- there's no</p> <p>18 room. The buildings were so tight together, we</p> <p>19 couldn't get a piece of armor back there. So any</p> <p>20 type of armored vehicles for protection would have</p> <p>21 been in an ARCO station with people that are</p> <p>22 continuously moving and an open business. And then</p> <p>23 another vehicle off of that street, which if it was</p> <p>24 Pecos or Nellis, I can't recall.</p> <p>25 And now there's a gate with a block wall</p>
<p style="text-align: right;">115</p> <p>1 Q. Yes. Who was currently --</p> <p>2 A. I can't recall, sir.</p> <p>3 Q. Was it your understanding that you might</p> <p>4 do this and the apartment would just be vacant?</p> <p>5 A. We've -- we've hit vacant apartments</p> <p>6 several times where people say that they're in</p> <p>7 there. We've -- we've had a warrant just a couple</p> <p>8 weeks ago where people have said, hey, he's</p> <p>9 100 percent in there. And it was completely empty.</p> <p>10 It happens.</p> <p>11 Q. Do you believe that using a Surround and</p> <p>12 Call-Out entry technique as opposed to a CET entry</p> <p>13 was feasible for this?</p> <p>14 A. Could it have been done?</p> <p>15 Q. Yes.</p> <p>16 A. Can we -- we can do anything in SWAT. We</p> <p>17 find ways to get things done. We will find a way to</p> <p>18 make it work. Do I feel it was -- it was the</p> <p>19 best -- the best tactic at the time? No. It</p> <p>20 just -- it would have been very hard for us to land</p> <p>21 an armored vehicle and put it in a position to give</p> <p>22 us any type of tactical advantage at that time.</p> <p>23 I wasn't on the recon, I wasn't the ATL, I</p> <p>24 couldn't tell if there was enough spacing. So if</p> <p>25 this was the apartment, this is the door, this is</p>	<p style="text-align: right;">117</p> <p>1 that completely obstructs them from even being able</p> <p>2 to contain that. All that was, is going to be a</p> <p>3 show of force at that time.</p> <p>4 So those guys would have been on foot just</p> <p>5 behind shields. So if he presented himself out in a</p> <p>6 Surround and Call-Out and wanted to flee or -- or</p> <p>7 utilize any type of force -- deadly force towards</p> <p>8 us, we would have been at a disadvantage. So that's</p> <p>9 why they went with the CET.</p> <p>10 BY MR. BREEDEN:</p> <p>11 Q. For officer safety?</p> <p>12 A. For officer safety as well, yes. And</p> <p>13 citizen safety.</p> <p>14 Q. Is it public safety?</p> <p>15 A. I just said that. And citizen safety.</p> <p>16 Q. So, which do you think the safer entry</p> <p>17 technique is for people inside the apartment? A CET</p> <p>18 entry or a Surround and Call-Out?</p> <p>19 A. In that situation, which what was briefed,</p> <p>20 based on the severity of the crime and what these</p> <p>21 guys were -- could potentially do, a CET would have</p> <p>22 been.</p> <p>23 Q. So, is it your testimony that a Surround</p> <p>24 and Call-Out simply was not feasible?</p> <p>25 A. It's not that it was not feasible, it's</p>

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<p style="text-align: right;">118</p> <p>1 just -- based off of those subjects that we're going</p> <p>2 after, the access to weapons, the location itself,</p> <p>3 that's why they utilized the CET tactic. Could we</p> <p>4 have down a Surround and Call-Out? Possibly. We</p> <p>5 can -- we find ways to do a lot of things in SWAT.</p> <p>6 Q. If this SWAT action was taken today, under</p> <p>7 the current policies and procedures for a property</p> <p>8 only search warrant, would a CET entry be permitted?</p> <p>9 A. At this time, possibly not. Especially --</p> <p>10 if we had to, we know -- like I said, I wasn't</p> <p>11 there. I don't -- I mean, I was there, but I wasn't</p> <p>12 a part of the planning process. We would have tried</p> <p>13 to find a way to get a BearCat closer, if we can.</p> <p>14 So to answer your question, yes.</p> <p>15 Q. So you're saying yes, if this same event</p> <p>16 occurred today, CET would not be approved?</p> <p>17 A. No.</p> <p>18 Q. I'm sorry, we're answering each other so</p> <p>19 that your response might be a little -- a little</p> <p>20 misleading. So let me rephrase it again.</p> <p>21 If this same SWAT action occurred today,</p> <p>22 would CET entry be approved?</p> <p>23 A. If we got this warrant today for a -- that</p> <p>24 they were going after a property crime and possibly</p> <p>25 a suspect inside, we would have probably done a</p>	<p style="text-align: right;">120</p> <p>1 I asked you if you believe that if you saw other</p> <p>2 officers that were violating the civil rights of the</p> <p>3 public, whether you felt you had a duty to intervene</p> <p>4 and you said yes. You understand that you have that</p> <p>5 duty, correct?</p> <p>6 A. Yes, sir, I understand that.</p> <p>7 Q. So, when you observed the tactical</p> <p>8 briefing, and you heard that the plan was to do two</p> <p>9 announcements and then you were to use force, did</p> <p>10 you raise any concerns that you were not allowing a</p> <p>11 reasonable amount of time for occupants to come to</p> <p>12 the door and allow entry to the officers willingly?</p> <p>13 A. No. I did not feel that I was -- no. I</p> <p>14 was comfortable with it. I understood why they</p> <p>15 wanted it done. I was good with the plan.</p> <p>16 Q. Okay. And would you agree with me that</p> <p>17 because whoever is in there is likely asleep, a</p> <p>18 person who is asleep would probably need a little</p> <p>19 longer time to wake up and ascertain things than</p> <p>20 somebody who was wide awake?</p> <p>21 A. I could -- yeah, I could understand that,</p> <p>22 too. But we also want to make sure that we are</p> <p>23 catching them by surprise as well. To disorient,</p> <p>24 disrupt anything that they're trying to do inside as</p> <p>25 well. So -- especially when we're going after</p>
<p style="text-align: right;">119</p> <p>1 Surround and Call-Out on that in this environment</p> <p>2 right now. Yes, to answer your question. Is that</p> <p>3 correct?</p> <p>4 Q. Yeah, I can understand your response.</p> <p>5 A. Okay.</p> <p>6 Q. I just wanted to make sure it was clear.</p> <p>7 So what has changed, then, since when</p> <p>8 Mr. Williams was killed in January of 2022 and</p> <p>9 today?</p> <p>10 A. Well, what has changed is, you know, the</p> <p>11 IAP has obviously added a lot more information that</p> <p>12 is needed for the service of these warrants. And</p> <p>13 these are some of the things I've already kind of</p> <p>14 touched on, was when was the last time you've seen</p> <p>15 the surveillance? Observations of anybody inside?</p> <p>16 Coming and going. Like, stuff like that. Time of</p> <p>17 day, patterns of life. Those are things that have</p> <p>18 also been added. And these are the things that we</p> <p>19 are forcing -- not forcing. We are asking the</p> <p>20 detectives to do to make sure that the investigation</p> <p>21 is solid. Because once we are utilized, we're such</p> <p>22 a show of force that if we are there, we need to be</p> <p>23 able to make sure that we're doing the tactics</p> <p>24 safely and efficiently.</p> <p>25 Q. Now, at the beginning of this deposition,</p>	<p style="text-align: right;">121</p> <p>1 someone that's involved in a homicide.</p> <p>2 Q. Well, if you're planning on surprising and</p> <p>3 disorienting them, how is the person going to tell</p> <p>4 that you're police officers and have time to come to</p> <p>5 the door and say, "Oh, yeah, you're here to serve a</p> <p>6 warrant? Come on in."</p> <p>7 A. Well, we're also going to continue to make</p> <p>8 announcements, let them know. And we're also</p> <p>9 looking to get them to a point to where if we're</p> <p>10 making entry or we're about to make entry, we want</p> <p>11 them to basically stop any type of action and be</p> <p>12 able to comply with us as we're coming in.</p> <p>13 Q. Well, you don't want them to stop</p> <p>14 willfully allowing you entry, do you?</p> <p>15 A. We don't want them to what? I'm sorry,</p> <p>16 I --</p> <p>17 Q. Well, look, if the person is in the</p> <p>18 process of coming to the door to say, "Oh, you're</p> <p>19 police officers with a search warrant. Sure, come</p> <p>20 on in. Here, you know, it's an open book. Do</p> <p>21 whatever you need to do." You don't want to</p> <p>22 interrupt that process, do you?</p> <p>23 A. Not necessarily. We don't want to</p> <p>24 interrupt it. But we're also not necessarily -- in</p> <p>25 a CET, we're wanting them -- we are wanting to -- we</p>

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<p style="text-align: right;">122</p> <p>1 want them to just stop action, too, as well.</p> <p>2 Q. Do you remember any officer raising any</p> <p>3 concern that a reasonable amount of time was not</p> <p>4 being planned for somebody to come to the door and</p> <p>5 provide the officers entry?</p> <p>6 A. No, sir, I do not recall that.</p> <p>7 Q. Wasn't the planning of this essentially a</p> <p>8 no-knock warrant? You were just going to do</p> <p>9 announcements and burst in?</p> <p>10 A. This was -- this was not a no-knock</p> <p>11 warrant. No, sir.</p> <p>12 Q. Well, I know legally it wasn't a no-knock</p> <p>13 warrant. But there wasn't any reasonable amount of</p> <p>14 time to allow somebody to get up from a sleeping</p> <p>15 position and come to the door, was there?</p> <p>16 MR. ANDERSON: Objection, form.</p> <p>17 Go ahead.</p> <p>18 THE WITNESS: The other -- the thing,</p> <p>19 also, with knock and announce, and, you know, we've</p> <p>20 already covered it and you mentioned it yourself, is</p> <p>21 that we're also officer safety. The amount of time</p> <p>22 that we're going to wait there is also a factor of</p> <p>23 how -- that we take into consideration, too.</p> <p>24 So whether it's two seconds, six seconds,</p> <p>25 eight seconds, fifteen, is it's also going to be --</p>	<p style="text-align: right;">124</p> <p>1 mean, all -- everyone -- all of that goes into our</p> <p>2 concern when we're planning.</p> <p>3 Q. Do you remember any officer asking any</p> <p>4 questions during the briefing about any topic?</p> <p>5 A. Any topic? Topic of -- could you</p> <p>6 elaborate?</p> <p>7 Q. Yeah. Any topic in terms of what are</p> <p>8 these people wanted for? You know, how many seconds</p> <p>9 should we wait? Who's going to do the</p> <p>10 announcements?</p> <p>11 A. That's all -- that was all discussed in</p> <p>12 the -- in the briefing. Those things were discussed</p> <p>13 in the briefing. Nothing about time and -- no, like</p> <p>14 your -- to answer -- nothing about time and how many</p> <p>15 seconds. That wasn't discussed. But who's doing</p> <p>16 the bullhoring and why we're here, yes.</p> <p>17 Q. Okay. But was that -- was that a one-way?</p> <p>18 In other words, the person doing the briefing just</p> <p>19 said, "Hey, look, Bertuccini. You're going to do</p> <p>20 the stun stick." Or did anybody on any topic reach</p> <p>21 out to ask a follow-up question to the person doing</p> <p>22 the briefing?</p> <p>23 A. No, sir.</p> <p>24 Q. Now, I notice during one of your</p> <p>25 interviews, you indicated that as part of the</p>
<p style="text-align: right;">123</p> <p>1 you know, is it a safety concern for us just waiting</p> <p>2 outside. Especially dealing with, you know,</p> <p>3 continue to harp on it, someone that's possibly</p> <p>4 armed inside.</p> <p>5 BY MR. BREEDEN:</p> <p>6 Q. Okay. But you guys are wearing body armor</p> <p>7 and helmets, and some of you have ballistic shields.</p> <p>8 And you can take defensive positions. Nobody inside</p> <p>9 the apartment has any of that, do they?</p> <p>10 MR. ANDERSON: Objection, form.</p> <p>11 THE WITNESS: No, we don't. But we also</p> <p>12 had an officer that was shot six times. And we</p> <p>13 also -- we also had a gentleman next to me who took</p> <p>14 two rounds into his shield. So I understand -- I</p> <p>15 understand my -- my role as a SWAT officer and being</p> <p>16 willing to wear that equipment and make entry.</p> <p>17 But -- and we're risking things. But we're also --</p> <p>18 we also was just shot at, I believe, 18 times by</p> <p>19 this gentleman.</p> <p>20 BY MR. BREEDEN:</p> <p>21 Q. When you were deciding for this to be --</p> <p>22 or when it was decided this would be a CET entry,</p> <p>23 was the primary consideration, then, officer safety?</p> <p>24 A. Officer safety, citizen safety, anyone</p> <p>25 else inside. Like I told you, people around. I</p>	<p style="text-align: right;">125</p> <p>1 briefing, there was going to be a quote,</p> <p>2 "contingency" end quote, plan, if a quote "breach</p> <p>3 longer than expected" end quote, occurred. Do you</p> <p>4 recall that?</p> <p>5 A. Yes. I mean, that's a -- that's a very</p> <p>6 common thing that they'll talk about, a delayed</p> <p>7 breach.</p> <p>8 Q. What was the contingency?</p> <p>9 A. So, if they were going to -- if there was</p> <p>10 going to be any type of delayed breach at the door</p> <p>11 with the ram, our ballistic breach officer would</p> <p>12 step up and -- and basically start to utilize</p> <p>13 ballistic breach compressed copper rounds into the</p> <p>14 lock to continue to get the door open.</p> <p>15 Q. Is that the Shok Lock?</p> <p>16 THE WITNESS: The Shok Lock, yes, sir.</p> <p>17 THE REPORTER: The what? Shock?</p> <p>18 THE WITNESS: Shok. It's actually not</p> <p>19 actually s-h-o-c-k, it's actually S-h-o-k, and then</p> <p>20 Lock.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q. So, the contingency plan was to use a Shok</p> <p>23 Lock?</p> <p>24 A. That was our ballistic breach contingency</p> <p>25 plan, yes, sir.</p>

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<p style="text-align: right;">126</p> <p>1 Q. And if further you couldn't obtain a 2 breach, would you revert into a Surround and 3 Call-Out? 4 A. We would at that point -- Jake, I believe 5 he stated that he would fall back to that corner so 6 that we still had eyes on, and I would continue to 7 work the window. Because at that point, the stun 8 would have already been initiated. I would have had 9 that window completely raked out and I would have 10 had eyes into the target. 11 Q. Did any part of the plan involve a 12 scenario where you would actually enter the 13 apartment through the window? 14 A. No, sir. We would not do that on a -- on 15 a search warrant, sir. 16 Q. Why not? I mean -- 17 A. It's not -- it's just not an entry point 18 for us. It would cause -- it could cause safety, 19 harm, risk to us. We could get cut. We could get 20 hung up. It's going to -- it's an obstacle. It's 21 an elevated obstacle. So, no. We would only do 22 that on a crisis entry in a hostage situation if 23 need be. 24 Q. Okay. And you indicated in one of your 25 interviews that in the past during some of these</p>	<p style="text-align: right;">128</p> <p>1 In the 24 hours before that January 10, 2 2022 SWAT action, had you consumed any alcoholic 3 beverages? 4 A. No. 5 Q. Had you used any drug of any kind, 6 including prescription medication? 7 A. No, sir. 8 Q. Okay. And were those your normal waking 9 hours that time of day? They weren't, right? Your 10 normal shift was noon to 2:00? 11 A. I mean, I get up usually 6:00, 7:00 to go 12 to the gym every morning. 13 Q. I mean, this occurred -- the tactical 14 briefing, what time did that start? 15 A. I believe it started at 5:00. 16 Q. Well, the action started at 5:00, so the 17 tactical briefing must have been before then. 18 A. I -- like I said, two years ago, you have 19 better knowledge of it than me. I just remember 20 around 5:00 a.m. 21 Q. And how long did the tactical briefing 22 last? 23 A. Usually, anywhere between 20 minutes -- I 24 mean, I don't know an exact time. Sometimes some 25 are shorter, some are longer, some plans are a</p>
<p style="text-align: right;">127</p> <p>1 briefings you have made tactical suggestions. 2 A. Yes, sir. 3 Q. Did you do anything like that during this 4 briefing? 5 A. I just asked J K what your -- what was 6 your thought process for the stun stick here. He 7 basically told me that he was able to pull up photos 8 of the interior, of the layout, and saw that that 9 window put us right into the living room. So that 10 as they were working the front door, if they got 11 hung up, I would be able to basically see inside. 12 Me and Roth would be able to see the inside of the 13 entire apartment. 14 So if we did, you know, see people, we 15 could see what was going on beside the door. If we 16 needed to tell them, hey, you got a chair behind the 17 door and there's -- hey, there's a guy coming to the 18 door, like, we'd be able to do that. 19 Q. When you said you discussed that with J K, 20 who -- 21 A. Sorry, Officer Werner. My apologies. 22 Q. So, let's talk a little bit more, then, 23 about the SWAT entry itself. And we'll look at some 24 video here. But let me ask you a couple questions 25 first.</p>	<p style="text-align: right;">129</p> <p>1 little bit more elaborate and longer and more in 2 depth than others. Some can be just more standard. 3 It just would depend. 4 Q. Let's assume the tactical briefing 5 happened around 4:30 a.m. 6 A. Okay. 7 Q. On your regular day off, would you 8 normally be awake at that hour? 9 A. Not at that hour, no. 10 Q. Physically, how did you get to the 11 tactical briefing, and who rode with you? 12 A. How did I get to the tactical -- I drove 13 myself. I came from my home, I got to the brief, I 14 drove my personal -- not my personal truck, my work 15 truck where all my equipment is. Got dressed -- 16 Q. Did you pick anyone up on the way? 17 A. No, sir. 18 Q. I'm going to review some -- some video 19 now. This comes from a body camera that I believe 20 was yours. 21 A. Okay. 22 Q. And just for the record here, so this 23 would be the body camera video labeled as Officer 24 Bertuccini's. And we're going to start it at the 25 time 12:58. But we should make clear that doesn't</p>

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<p style="text-align: right;">130</p> <p>1 mean this happened at 12:58 a.m., does it?</p> <p>2 A. No.</p> <p>3 Q. That's Zulu time, correct?</p> <p>4 A. Sure, yeah. You know better -- more than</p> <p>5 me. But, yeah. No, it did not happen at 12:58 a.m.</p> <p>6 Q. Do you use that term, Zulu time, when you</p> <p>7 talk about --</p> <p>8 A. I'm going to be honest with you, that's</p> <p>9 the first time I ever heard that. So, no, I do not.</p> <p>10 Q. Okay. All right. So -- but it's your</p> <p>11 understanding that basically, there is a seven-hour</p> <p>12 time difference here. So we're going to use the</p> <p>13 translated time, then, and I will tell you that this</p> <p>14 video then starts at 4:58 a.m. I got that wrong.</p> <p>15 It's an eight-hour difference, isn't it? This is</p> <p>16 going to start at 4:58 a.m. And I'm going to play</p> <p>17 it for a little bit and then I'll stop it and ask</p> <p>18 you some questions.</p> <p>19 A. Yes, sir.</p> <p>20 (Video playing.)</p> <p>21 THE WITNESS: If you wanted me to hear</p> <p>22 something, I can't hear it.</p> <p>23 BY MR. BREEDEN:</p> <p>24 Q. It's pretty faint right now.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">132</p> <p>1 began to approach the apartment, are you wearing a</p> <p>2 helmet?</p> <p>3 A. Yes, sir, I'm wearing my helmet.</p> <p>4 Q. Is that, like, a tactical or bulletproof</p> <p>5 helmet?</p> <p>6 A. It's a ballistic helmet, yes, sir.</p> <p>7 Q. Did you have a taser on you?</p> <p>8 A. Yes, sir, I did.</p> <p>9 Q. And you had your body camera on and it was</p> <p>10 activated?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Were you wearing a bulletproof vest?</p> <p>13 A. Yes, sir, I was.</p> <p>14 Q. Okay. Would you use a different term</p> <p>15 other than bulletproof vest, like a tactical vest?</p> <p>16 A. It's a tactical ballistic vest.</p> <p>17 Q. And did you have a handgun with you?</p> <p>18 A. Yes, sir.</p> <p>19 Q. What type, caliber?</p> <p>20 A. It was a 9mm Glock 17.</p> <p>21 Q. Did you have any other firearms?</p> <p>22 A. I did. I had a secondary firearm with me.</p> <p>23 Another Glock 17.</p> <p>24 Q. Okay. Did you have flex cuffs?</p> <p>25 A. I did.</p>
<p style="text-align: right;">131</p> <p>1 Q. Okay. I'm going to stop it at 4:58:50.</p> <p>2 And so I'm going to ask you, and I know we haven't</p> <p>3 looked at this too much yet, but do you believe that</p> <p>4 is the video from your body camera?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. And who were you arriving with at</p> <p>7 the beginning of the video?</p> <p>8 A. Like I said, I drove myself to the brief.</p> <p>9 We briefed. I rode with Roth in his truck. That</p> <p>10 was the plan. Just Jake told us to -- Officer</p> <p>11 Werner told us, hey, just buddy up. Take one truck,</p> <p>12 limit the vehicle package, the number of guys on the</p> <p>13 rails.</p> <p>14 Q. And you drove?</p> <p>15 A. I did not -- I don't recall driving. I</p> <p>16 believe Roth drove.</p> <p>17 Q. Oh, okay. And why was it you were not on</p> <p>18 the BearCat, then?</p> <p>19 A. Why was I not on the BearCat? It was just</p> <p>20 easier for us to drive in our truck, because how</p> <p>21 tight the parking lot was. They wanted to try to</p> <p>22 limit the number of vehicles in there. In case we</p> <p>23 did have a down officer, we had a good ingress and</p> <p>24 egress for medical.</p> <p>25 Q. And at the time, then, when you exited and</p>	<p style="text-align: right;">133</p> <p>1 Q. And we saw on the video, and if you need</p> <p>2 me to replay it, but we saw that you retrieved the</p> <p>3 stun stick from the rear of the vehicle.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. And it was already loaded at that</p> <p>6 time?</p> <p>7 A. Loaded and ready to go, yes, sir.</p> <p>8 Q. Okay. Did you have anything else on your</p> <p>9 person, then, that we haven't already discussed?</p> <p>10 A. Just everything on my kit, whatever my --</p> <p>11 you know, my kit, which is my -- my tactical vest.</p> <p>12 It's what we refer to as our kit.</p> <p>13 Q. What -- what else would be on it?</p> <p>14 A. Explosives, radio, medical pouch, medical</p> <p>15 kit, notebooks, stuff like that. Initiators.</p> <p>16 Q. I'm going to play the video here for a</p> <p>17 little bit, and then we're going to stop it, sort of</p> <p>18 as you round the corner --</p> <p>19 A. Okay.</p> <p>20 Q. -- to get to the rear window, okay?</p> <p>21 (Playing video.)</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q. Okay. We're going to stop the video at</p> <p>24 this point. I stopped it at -- what on this video</p> <p>25 is 4:59 a.m. and 38 seconds. And I think as I</p>

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<p style="text-align: right;">134</p> <p>1 stopped it, you could actually hear. And the time</p> <p>2 on the video varies from video -- camera to camera.</p> <p>3 A. I understand.</p> <p>4 Q. But at least on your body camera video,</p> <p>5 you can already hear the beginning of the first</p> <p>6 announcement at this time --</p> <p>7 A. Yes, sir --</p> <p>8 Q. -- correct?</p> <p>9 A. -- I do.</p> <p>10 Q. And did you recognize the voice as that,</p> <p>11 in fact, Sergeant Backman?</p> <p>12 A. Sergeant Backman, yes, sir.</p> <p>13 Q. Okay. Now, you're in the line of</p> <p>14 officers. And you walked by the front door to this</p> <p>15 apartment, didn't you?</p> <p>16 A. I was shielded -- once that door was</p> <p>17 shielded, I went -- I went past it, yes.</p> <p>18 Q. Could you see that the front door had a</p> <p>19 brass plate?</p> <p>20 A. From my vantage point, no, I could not</p> <p>21 tell if it had a brass wrap.</p> <p>22 Q. Let me ask you hypothetically, if you had</p> <p>23 observed a brass wrap on the door, what would you</p> <p>24 have done?</p> <p>25 A. If I was on the recon and I observed a</p>	<p style="text-align: right;">136</p> <p>1 No more than one or two hits on the door and we'd go</p> <p>2 right to Shok Lock. That's -- that's me. That's,</p> <p>3 you know, my, you know, tactical assessment of that</p> <p>4 door.</p> <p>5 And it would also come down to the frame.</p> <p>6 I don't recall if the frame was wood or metal. I</p> <p>7 don't remember them stating that. So would, if --</p> <p>8 would that have changed my breach plan as the ATL?</p> <p>9 Yes. I believe it -- if you asked Officer Werner</p> <p>10 that question, maybe it changes his breach plan,</p> <p>11 too. But at the time, they did not see the wrap.</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q. And would you agree with me that the fact</p> <p>14 that there's a brass wrap is important when planning</p> <p>15 the entry into this apartment?</p> <p>16 A. 100 percent. Especially when it comes to</p> <p>17 the breach plan.</p> <p>18 Q. And that should have been recognized at</p> <p>19 the reconnaissance phase, shouldn't it?</p> <p>20 A. I feel, yes, it should have been seen.</p> <p>21 Q. Do you feel that's a failure of the</p> <p>22 reconnaissance officers?</p> <p>23 A. I wouldn't say it's a failure. I would</p> <p>24 say it's something that if they didn't feel they</p> <p>25 got -- if they weren't able to get a good pass on</p>
<p style="text-align: right;">135</p> <p>1 brass wrap, I would inform my sergeant. I would let</p> <p>2 him know, hey, this could be -- and this is a thing</p> <p>3 with doors. And I'm not going to get long-winded</p> <p>4 with this. Here's the thing with doors</p> <p>5 (indiscernible).</p> <p>6 THE REPORTER: What kind of doors?</p> <p>7 THE WITNESS: Metal foam filled doors.</p> <p>8 Standard metal foam filled door in an apartment.</p> <p>9 And a brass wrap is an additional metal</p> <p>10 plate that wraps around the locking mechanism, okay?</p> <p>11 On the frame, if the door -- if the frame</p> <p>12 is wood, it's -- it's very simple to break that</p> <p>13 piece. You're going to get -- you're going to get</p> <p>14 that flex on it. It's going to -- you know, you're</p> <p>15 going to bust that one by two. It's not going to be</p> <p>16 a problem.</p> <p>17 With a metal frame door, and that lock</p> <p>18 that -- you're not going to really get the flex with</p> <p>19 it unless you've got a guy that can really -- can</p> <p>20 really hit. You know, utilize the ram to its -- the</p> <p>21 most out of it, best efficiency.</p> <p>22 So in that situation, I would have</p> <p>23 actually talked with my sergeant about possibly</p> <p>24 placing an explosive charge on that door. Or, I</p> <p>25 would have had told the breachers that, hey, look.</p>	<p style="text-align: right;">137</p> <p>1 the door, then maybe it needed to be redone. I</p> <p>2 wouldn't call it a failure. I would -- I would</p> <p>3 definitely state that that would need to be redone.</p> <p>4 So those are questions that the ATL asked. Is there</p> <p>5 a wrap? If they say, I don't know, then we'll --</p> <p>6 there's -- another pass is going to need to be done</p> <p>7 at some point.</p> <p>8 Q. Because, look, anybody doing</p> <p>9 reconnaissance, not only can they plainly see a</p> <p>10 brass wrap on the door, but they should be looking</p> <p>11 for that, right?</p> <p>12 A. They should be looking for it. But I will</p> <p>13 say this, sir. Is that there are times in certain</p> <p>14 apartment complexes that do have brass wraps.</p> <p>15 They'll paint that the same color as the door. So</p> <p>16 unless you're able to see those screws that, you</p> <p>17 know, are now painted that is holding that brass</p> <p>18 wrap in, it's tough to see.</p> <p>19 Now, in his -- another thing, too, is,</p> <p>20 what we also do is, if we can't get a good pass on</p> <p>21 that door, we'll look at like apartments. Like</p> <p>22 apartments did not have that wrap. So this was a</p> <p>23 door that was -- that was placed on by either</p> <p>24 maintenance or the owner. The occupant, sorry.</p> <p>25 Q. Well, I'll let you know, I've seen</p>

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1 pictures of it, and this brass was -- was not
 2 painted.
 3 A. Okay.
 4 Q. But that's an important factor here, isn't
 5 it?
 6 A. It is.
 7 Q. And this was not discussed in the tactical
 8 briefing at all, was it?
 9 A. No.
 10 Q. In fact, did you even have -- well, you
 11 had somebody with a Shok Lock. But you didn't have
 12 anybody with other explosives, did you?
 13 A. No, we did not utilize an explosive breach
 14 on this door, sir.
 15 Q. Now, we've talked about sort of at the
 16 reconnaissance phase, you know, what -- what
 17 probably should have been done. But now, the
 18 question is slightly different. Let's just say
 19 hypothetically, look, you're the first officer in
 20 the line. Coming right up on that door. You can
 21 see a brass wrap clear as day on it, and no one has
 22 discussed that before. Hypothetically, what should
 23 have happened with that additional information?
 24 A. If that gets noticed -- I mean, this is --
 25 being -- with my experience, as that -- if that was

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1 noticed, what should have happened was, is once the
 2 breach was started to work, if they were -- if they
 3 were getting -- you know, getting resistance or the
 4 door wasn't breaching, that Shok Lock officer or
 5 even the No. 1 guy needed to call up that ballistic
 6 breacher faster. That should have been done
 7 quicker, in my opinion.
 8 Q. I'm going to play the video for just a
 9 couple of seconds longer, as you approach the window
 10 so that we have a good view of the window and then
 11 I'm going to stop it and ask you some questions
 12 again.
 13 So, if I didn't state it before, we
 14 stopped at 4:59 and 38 seconds. And I'm just going
 15 to play the video a little more here.
 16 (Playing video.)
 17 BY MR. BREEDEN:
 18 Q. Okay. So I've stopped it rather quickly
 19 at 4:59 and 41 seconds.
 20 At this time, you are at what is the
 21 living room video -- or I'm sorry, the living room
 22 window of the apartment, correct?
 23 A. Yes, sir.
 24 Q. And you have the stun stick, and it is
 25 loaded with a distraction and you're ready to deploy

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1 it.
 2 A. I'm ready, yes.
 3 Q. Okay. Now, the window is a double pane
 4 window, correct?
 5 A. Yes, sir.
 6 Q. And there's nothing like iron bars on it.
 7 A. No. But there's a solar screen on the
 8 left side, which is why I opted to go to the right.
 9 Q. Yeah. There's two things that you should
 10 notice about this window immediately, right? And
 11 the one is the solar screen on the left side. Why
 12 is that important to you?
 13 A. The thing is, believe it or not, the solar
 14 screen could add an obstruction and a barrier into
 15 the window and could, you know, put a delay on
 16 getting a good breach into that. And it also could
 17 be a fire hazard. Which is why I opted to go to the
 18 opposite side.
 19 Has it been done? Has -- does it happen
 20 all the time? No. Could it happen? Yes. And I
 21 want to avoid that.
 22 Q. Did anybody at the tactical briefing or
 23 anybody in reconnaissance give you a head's up
 24 before you rounded that corner, hey, there's going
 25 to be a solar screen on part of the window?

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1 A. No. I'm planning for it. I mean, I'm --
 2 I have a fire extinguisher in my backpack if I opted
 3 to go to that. Could I have gone to that? Yes.
 4 Did I want to have any type of obstruction and delay
 5 the breaching of the window? No. That's why I
 6 opted to go to the right side.
 7 Q. Okay. And what's the second thing that is
 8 pretty readily noticeable about this window that's
 9 of importance to you?
 10 A. The blinds are closed.
 11 Q. Why is that important?
 12 A. Because now, if I do opt to break the
 13 window, I need to make sure that once I clear it, or
 14 if I clear it before I initiate the stun stick.
 15 Q. The problem is, you can't see in, right?
 16 A. Yeah.
 17 Q. So, when you break out the window and you
 18 deploy the stun stick, you have no idea at this
 19 point, is anyone on the other side? How close are
 20 they? You just don't know, do you?
 21 A. I do not.
 22 Q. And it's official policy to know those
 23 things before you deploy the stun stick, isn't it?
 24 A. Uh-huh. I didn't see any shadow, I didn't
 25 see any, you know, toys in the -- in the, you know,

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<p style="text-align: right;">142</p> <p>1 framing or anything like that. So I was comfortable</p> <p>2 with my decision to go ahead and at least break the</p> <p>3 window. If I saw anything else that would have</p> <p>4 caused a safety issue, I would not have initiated</p> <p>5 it.</p> <p>6 Q. And a couple issues are, you don't want to</p> <p>7 hit people inside with flying glass, right?</p> <p>8 A. It's not going to -- I mean, yes.</p> <p>9 Q. And the other issue is, you don't want to</p> <p>10 employ the distract device too close to them,</p> <p>11 correct?</p> <p>12 A. Of course.</p> <p>13 Q. And, in fact, even manufacturer's</p> <p>14 recommendations say, hey, you've got to watch out.</p> <p>15 You can't deploy these too close to people.</p> <p>16 A. That's more of hand-held. This is in a</p> <p>17 housing, which we are controlling the port. And my</p> <p>18 job is to put that into the ceiling as high as</p> <p>19 possible. So it's not going to harm anyone.</p> <p>20 Q. Did you have any expectation at all before</p> <p>21 you rounded that corner whether the blinds would be</p> <p>22 opened or closed?</p> <p>23 A. I did not know if they'd be opened or</p> <p>24 closed, sir.</p> <p>25 Q. I mean, somebody could have driven by from</p>	<p style="text-align: right;">144</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. Okay. I've stopped the video here at 5:02</p> <p>3 a.m. and five seconds, okay? And just going to ask</p> <p>4 you some questions here.</p> <p>5 But first of all, what is last time you</p> <p>6 saw your body camera video from -- from that</p> <p>7 morning?</p> <p>8 A. I saw it yesterday.</p> <p>9 Q. Okay. And before that time yesterday,</p> <p>10 when was the last time?</p> <p>11 A. Probably when I did my CIRT statement.</p> <p>12 Two years ago.</p> <p>13 Q. Okay. So prior to yesterday, it had been</p> <p>14 a couple years.</p> <p>15 A. Yes, sir.</p> <p>16 Q. All right. Now, we see on the video, you</p> <p>17 deploy the stun stick to the right pane.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And so is it fair to say that there's kind</p> <p>20 of two actions here. No. 1 is, you insert it and</p> <p>21 you break out the window, and then you're going to</p> <p>22 pull it to trigger the distraction device.</p> <p>23 A. Well, I'm going to insert it, break the</p> <p>24 window, and I'm going to look first. So that was --</p> <p>25 I'm looking first. I know he's calling pull. Well,</p>
<p style="text-align: right;">143</p> <p>1 the street and probably told you that in advance,</p> <p>2 couldn't they?</p> <p>3 A. They could have. I'm sure they could</p> <p>4 have, or someone could have been sitting out there.</p> <p>5 But they didn't.</p> <p>6 Q. Okay. So, the first time you learned</p> <p>7 either of the solar screen or the closed blinds was</p> <p>8 literally when you rounded that corner and were</p> <p>9 seconds away from deploying the stun stick; is that</p> <p>10 accurate?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So there was so little intelligence</p> <p>13 information or reconnaissance here that you didn't</p> <p>14 know that until seconds before you had to make a</p> <p>15 decision, right?</p> <p>16 A. Yeah. I didn't know that there was a</p> <p>17 solar screen until I wrapped it, yes, sir.</p> <p>18 Q. Okay. We're going to go ahead and play</p> <p>19 the video here. We'll probably play it for a minute</p> <p>20 or so --</p> <p>21 A. Okay.</p> <p>22 Q. -- and then I'll ask you some additional</p> <p>23 questions.</p> <p>24 (Playing video.)</p> <p>25 ...</p>	<p style="text-align: right;">145</p> <p>1 I'm going to look first. On the first pull I got a</p> <p>2 soft primer strike. It didn't go the first time.</p> <p>3 It went the second time.</p> <p>4 Q. Okay. Well, I mean, how long are you</p> <p>5 going to look?</p> <p>6 A. I'm going to make sure that there's not,</p> <p>7 like, a child or some type of safety issue on the</p> <p>8 other side. I mean, that's -- it's my job to do</p> <p>9 that. So it's going to be a second, you know, and</p> <p>10 that's -- and that pull. So I'm going to make sure.</p> <p>11 It was an open, clear area. I believe there was --</p> <p>12 it was right by the TV that was mounted where I put</p> <p>13 it.</p> <p>14 Q. Now, before you broke the window by</p> <p>15 inserting the stun stick, did you ever see anyone</p> <p>16 moving inside the apartment?</p> <p>17 A. No, sir, I did not.</p> <p>18 Q. Did you ever hear anyone inside, whether</p> <p>19 they were speaking or moving around?</p> <p>20 A. Prior -- after I broke the window?</p> <p>21 Q. Prior to breaking the window.</p> <p>22 A. No, sir, I did not.</p> <p>23 Q. And prior to breaking the window, did you</p> <p>24 believe that most likely the occupants inside were</p> <p>25 asleep at 5:00 a.m.?</p>

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<p style="text-align: right;">146</p> <p>1 A. I mean, I don't know if they were 2 sleeping, if they were awake, if they were sitting. 3 I don't know. 4 Q. Okay. But you and I can agree that most 5 people are still sleeping at 5:00 a.m. 6 A. I know I would be. 7 Q. And prior to breaking the window, did you 8 know exactly how many people were inside the 9 apartment? 10 A. No, sir, I did not. 11 Q. Okay. As far as you knew, there could 12 have been women and children and people unrelated to 13 the warrant in the underlying crime inside. 14 A. Well, per based off the recon, there was 15 no elderly or children, so I don't know -- you know, 16 that could have changed. But not to my knowledge, 17 no. 18 Q. And you didn't know the identity of any 19 people inside the apartment, right? 20 A. I mean, the only people that were listed 21 that we knew names of were the people that were 22 listed on the -- on the information page. But that 23 was it. 24 Q. I'm talking about people actually inside. 25 A. No.</p>	<p style="text-align: right;">148</p> <p>1 A. Yes. 2 Q. Okay. And you're saying that you did that 3 in a second or so after you -- you broke the window 4 but before you tried to deploy the distract; is that 5 your testimony? 6 A. Yes. I have to look. 7 Q. Did you see Mr. Williams before you 8 deployed the distract? 9 A. No. He was off to the far left side. 10 Q. But literally, in terms of how close he 11 was to you, I mean, your left hip is probably only 12 three or four feet from his head where he was in the 13 apartment? 14 A. I don't know. Maybe. I don't know. 15 Q. Okay. Well, you would agree, where you're 16 standing, he was in a reclining position, like, on a 17 sofa or a futon just on the other side of the wall, 18 right? 19 A. On the left side, yes. 20 Q. Yeah. Are you aware that the SWAT manual 21 states that the stun stick is not to be used merely 22 to preserve evidence? 23 A. I'm aware of the utilization of the stun 24 stick, yes. It's -- if we're going to insert a stun 25 stick, no matter what the crime is, it would be</p>
<p style="text-align: right;">147</p> <p>1 Q. You didn't even know whether anybody was 2 actually inside or not, right? 3 A. No. 4 Q. Let alone who they were. 5 A. Correct. 6 Q. All right. And before you broke the 7 window, did anyone inside indicate to you in any way 8 that they were going to refuse the officers 9 admittance? 10 A. Can you -- I'm sorry, I lost you half way 11 there. Could you repeat that, please? 12 Q. Before you used the stun stick to break 13 the window, did anyone inside the apartment indicate 14 to you that they were not going to provide the 15 officers admittance? In other words, open the door? 16 A. No, no. 17 Q. Okay. Let's see here. And if there were 18 occupants inside, before you broke that window, you 19 had no idea who they were or where they were in the 20 apartment, right? 21 A. No. 22 Q. Okay. And you would agree with me that 23 the SWAT manual for deploying the stun stick, it 24 requires you to be assured that the area is clear 25 before you -- you use it, correct?</p>	<p style="text-align: right;">149</p> <p>1 off -- we have to get authorization from the 2 lieutenant to use it no matter what the search 3 warrant is or what it is. 4 Q. But what does that mean -- I mean, look, 5 you're here on a property only search warrant. In 6 other words, there's not a warrant for the arrest or 7 the person, it's property only. And yet the SWAT 8 manual says, look, you're not supposed to use these 9 stun sticks just in order to preserve evidence. So 10 what does that mean to you? 11 A. Our SWAT manual states we're not allowed 12 to use stun sticks for -- is that what it states, 13 what you're telling me? Because we're allowed to 14 utilize our tools for -- for warrants. If we're 15 going to insert -- the only thing that we need 16 authorization for, the only thing that we need 17 authorization for is if we're going to insert it, no 18 matter what the crime is. If we're going to utilize 19 a stun stick on a property crime, there's -- there's 20 artic- -- reasons behind that. Meaning, the 21 suspects inside have access to weapons. The 22 suspects inside have violent tendencies. They have 23 a violent criminal past. That's why we would 24 utilize that. And that would be authorized and 25 approved by the lieutenant.</p>

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<p style="text-align: right;">150</p> <p>1 (Exhibit No. 5 was marked.)</p> <p>2 THE WITNESS: So if it states --</p> <p>3 THE REPORTER: Wait, wait. Sorry.</p> <p>4 BY MR. BREEDEN:</p> <p>5 Q. So, looking at what's been marked as</p> <p>6 Exhibit 5 for this deposition, this is an excerpt</p> <p>7 from the SWAT policy manual. Its LVMPD 1508.</p> <p>8 And if you look in the second paragraph</p> <p>9 from the bottom, it states, quote, "Whenever</p> <p>10 possible, the device shall only be deployed when</p> <p>11 area is visibly cleared," end quote. Do you see</p> <p>12 that?</p> <p>13 A. Uh-huh. But it also --</p> <p>14 Q. Was that a yes?</p> <p>15 A. Yes, sir. It is. But it also states it</p> <p>16 should only be considered when tactics dictate that.</p> <p>17 And those tactics and the severity of the crime and</p> <p>18 the access to weapons is the articulation that we</p> <p>19 were able to use, and basically state to Lieutenant</p> <p>20 O'Daniel for that authorization.</p> <p>21 Q. So you would admit to me, though, it says,</p> <p>22 shall only be deployed when the area is visibly</p> <p>23 cleared. You clearly used the stun stick to break</p> <p>24 the window before you knew it had been visibly</p> <p>25 cleared, right?</p>	<p style="text-align: right;">152</p> <p>1 right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. It continues quote, "These devices shall</p> <p>4 not be deployed solely for the prevention of</p> <p>5 evidence destruction," ends quote. What does that</p> <p>6 mean to you?</p> <p>7 A. I mean, what you said is, it shouldn't be</p> <p>8 used for evidence destruction.</p> <p>9 But the other -- the other thing is, once</p> <p>10 again, I'll continue to say this, is that -- is</p> <p>11 we're going to utilize our tactics to give us this</p> <p>12 most safest and tactical advantage. So we utilize</p> <p>13 that stun stick because of the people that we may</p> <p>14 encounter inside of the target. Including the</p> <p>15 weapons that were outstanding. That's why we</p> <p>16 presented that to the lieutenant, who gave us the</p> <p>17 authorization for it.</p> <p>18 Q. Now, the purported murder weapon that was</p> <p>19 sought in the search warrant was listed as a small</p> <p>20 caliber handgun, correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Similar to a Glock or something like that?</p> <p>23 A. Doesn't matter what size the weapon is or</p> <p>24 how big it is, a bullet is a bullet.</p> <p>25 Q. That's not my question.</p>
<p style="text-align: right;">151</p> <p>1 A. I would -- I will say that, yes. But I</p> <p>2 don't have to visibly clear to break the window. I</p> <p>3 have to visibly clear in order to -- to initiate the</p> <p>4 stun stick.</p> <p>5 If I saw something and -- I broke the</p> <p>6 window and I saw something, I don't have to utilize</p> <p>7 the stun. I don't have to call out. I don't have</p> <p>8 to initiate the bang.</p> <p>9 Q. So, it's your understanding or your</p> <p>10 reading of this, that this -- this refers only to</p> <p>11 deployment of the distract and not the breaking of</p> <p>12 the window itself?</p> <p>13 A. This is deployment of the insertion of the</p> <p>14 distract.</p> <p>15 Q. Wouldn't you also want to not physically</p> <p>16 hit somebody with the stun stick itself when you're</p> <p>17 breaking the window?</p> <p>18 A. That's why we have to visibly clear --</p> <p>19 that's why we have to be able to clear what's on the</p> <p>20 other side. Yes, the blinds were closed. But we</p> <p>21 didn't -- I didn't see any shadows or anything that</p> <p>22 highlighted a reason for me not to break the window.</p> <p>23 Q. And you had so little visibility you</p> <p>24 couldn't see Mr. Williams, who was just feet from</p> <p>25 you when you deployed the stun stick, the distract,</p>	<p style="text-align: right;">153</p> <p>1 The question is: Would you agree with me</p> <p>2 that if that gun is in the apartment, it's not</p> <p>3 something that can be easily disposed of, for</p> <p>4 example, like flushing narcotics down the toilet?</p> <p>5 A. No.</p> <p>6 Q. Why wouldn't you agree with that?</p> <p>7 A. You can't flush -- it's hard to flush a</p> <p>8 gun.</p> <p>9 Q. Okay. So you do -- you agree with my</p> <p>10 statement --</p> <p>11 A. Yeah.</p> <p>12 Q. -- that there's really nothing anybody is</p> <p>13 going to be able to do in less than a minute to</p> <p>14 dispose of the gun if it's in there.</p> <p>15 A. No, they can't dispose of a weapon. They</p> <p>16 can't get rid of it. But they can also reach for it</p> <p>17 and grab it.</p> <p>18 Q. So why was the stun stick being deployed</p> <p>19 then?</p> <p>20 A. Why -- why was it being deployed?</p> <p>21 Q. Yeah. Why was it being used at all? I</p> <p>22 mean, this policy says you're not supposed to use it</p> <p>23 just merely to prevent evidence destruction. And</p> <p>24 the evidence in this case, the gun, anyway, would be</p> <p>25 difficult to dispose of. So why are we using the</p>

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<p style="text-align: right;">154</p> <p>1 stun stick at all?</p> <p>2 A. Once again, we utilize the stun stick for</p> <p>3 tactical advantage. For anyone inside, to</p> <p>4 disorient, disrupt any type of action inside, to</p> <p>5 basically utilize that to once -- like I told you,</p> <p>6 is to -- if the guys got hung up at the door, we</p> <p>7 would be able to use that as a breaching tool for</p> <p>8 the window to assist them on the -- on what's</p> <p>9 hanging them up. If they needed to pull back, we at</p> <p>10 least had eyes into the apartment and we could then</p> <p>11 continue with verbal commands if anybody -- to come</p> <p>12 out, lay down, get on the ground, while they</p> <p>13 continue to work the door.</p> <p>14 Q. Okay. But I mean, you continued to talk</p> <p>15 about -- you know, we talk about one thing, which is</p> <p>16 announcements are given at the front door. Police</p> <p>17 officer, search warrant. You know, we're here to</p> <p>18 execute a warrant.</p> <p>19 But then on the other hand, we're talking</p> <p>20 about a desire to confuse and disorient people</p> <p>21 inside so they can't understand or comprehend those</p> <p>22 instructions. Doesn't that seem to conflict with</p> <p>23 you?</p> <p>24 A. Yes. But it also is causing them to not</p> <p>25 continue with any type of reaching for weapons or</p>	<p style="text-align: right;">156</p> <p>1 was?</p> <p>2 A. I believe it was a soft primer strike</p> <p>3 with -- just the way the pin pulled back.</p> <p>4 Q. Has that ever happened to you before with</p> <p>5 this stun stick?</p> <p>6 A. It has happened -- not to me personally,</p> <p>7 it has happened to other guys.</p> <p>8 Q. Okay. And aren't you trained to yell no</p> <p>9 discharge in the event that happens?</p> <p>10 A. No. Basically, we -- we're -- with</p> <p>11 that -- if that was to happen, if I did it twice,</p> <p>12 two or three times, I would have yelled out no bang,</p> <p>13 no bang, no bang. But that first one, I was, like,</p> <p>14 I must have just got a soft primer strike. I'll try</p> <p>15 it again. If I don't get it on this one, I will</p> <p>16 verbalize no bang, no bang.</p> <p>17 Q. Now, somebody is also deploying a nine</p> <p>18 banger around the same time, right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Was it intended that the stun stick and</p> <p>21 the nine banger were going to be deployed at around</p> <p>22 the same time, or was one supposed to come after the</p> <p>23 other?</p> <p>24 A. No, it's supposed to be simultaneously.</p> <p>25 The reason for the nine banger is there was that</p>
<p style="text-align: right;">155</p> <p>1 trying to flee. Those are -- those are some of the</p> <p>2 reasons why we utilize the stun stick for the</p> <p>3 disruption, for the disorient, for -- to kind of get</p> <p>4 them out of their little loop.</p> <p>5 Q. Now, the manual, and I'm not sure it's on</p> <p>6 this particular page, but the manual states that</p> <p>7 when you're deploying the stun stick, you should</p> <p>8 generally yell distract, distract, distract.</p> <p>9 A. That's incorrect. We only utilize -- we</p> <p>10 only verbalize that over the radio when we are hand</p> <p>11 deploying a distract. And that's more of on --</p> <p>12 during a Surround and Call-Out.</p> <p>13 Q. Why are you not yelling it, then, on</p> <p>14 January 10, 2022?</p> <p>15 A. Because I'm utilizing the stun stick. I</p> <p>16 didn't need to. We don't do -- like I said, we only</p> <p>17 verbalize when we're deploying a stun -- when we're</p> <p>18 deploying a distract on a Surround and Call-Out, or</p> <p>19 if we're rendering a distract safe, which means it</p> <p>20 didn't go off. So we don't verbalize that once</p> <p>21 we're on scene, no.</p> <p>22 Q. And initially, you tried to deploy it and</p> <p>23 it didn't fire, right?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And do you have any theory about why that</p>	<p style="text-align: right;">157</p> <p>1 balcony behind where Rothenburg was standing, and</p> <p>2 then there was another window that was in question.</p> <p>3 We did not know if that secondary window and that</p> <p>4 balcony belonged to us. So the nine banger was</p> <p>5 basically utilized as a deterrent if anyone was</p> <p>6 trying to flee out of that -- out of that window.</p> <p>7 Or that door. So that's why we utilize that, to</p> <p>8 basically, like -- to let them know, hey, stop. You</p> <p>9 know, basically just to kind of stop their actions,</p> <p>10 if that was someone.</p> <p>11 Q. What officer deployed the nine banger?</p> <p>12 A. I just -- the only person I remember over</p> <p>13 there was (indiscernible). I can't remember who his</p> <p>14 partner was.</p> <p>15 THE REPORTER: Was who? I'm sorry.</p> <p>16 THE WITNESS: Collingwood. I don't</p> <p>17 remember who his partner was, so I don't know if it</p> <p>18 was Collingwood or his partner that deployed it.</p> <p>19 BY MR. BREEDEN:</p> <p>20 Q. And would you agree with me that a nine</p> <p>21 banger also makes sounds similar to a gunshot.</p> <p>22 A. Yes.</p> <p>23 Q. And, in fact, your partner, Officer</p> <p>24 Rothenburg, had to ask you afterward whether that</p> <p>25 was a nine banger going off, right?</p>

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<p style="text-align: right;">158</p> <p>1 A. Uh-huh. It was in the plan. It was</p> <p>2 discussed.</p> <p>3 Q. Yeah. Shouldn't he have known it was a</p> <p>4 nine banger? That should have been discussed in the</p> <p>5 tactical briefing, right?</p> <p>6 A. It was discussed in the tactical briefing.</p> <p>7 Q. Why do you think he was confused then?</p> <p>8 A. I have no idea.</p> <p>9 Q. Okay. So even a trained SWAT officer</p> <p>10 couldn't necessarily tell the difference between</p> <p>11 that nine banger and gunshots, right?</p> <p>12 A. Yeah. He should have known that. That</p> <p>13 was in the brief. That was put out in the tactical</p> <p>14 brief. That was briefed back. That was well-known.</p> <p>15 Everyone knew that was going on.</p> <p>16 Q. Okay. And then the nine banger deploys</p> <p>17 nine different sounds of that.</p> <p>18 A. Yes, sir.</p> <p>19 Q. Do you know what the interval time is in</p> <p>20 terms of seconds? Half a second?</p> <p>21 A. Half a second. It's -- it's nine</p> <p>22 munitions in there, nine different ports, within</p> <p>23 seconds.</p> <p>24 Q. So, at least would you agree with me, from</p> <p>25 Mr. Williams' perspective, he has heard multiple</p>	<p style="text-align: right;">160</p> <p>1 distinctly -- and I stated this in my statement with</p> <p>2 CIRT. I distinctly can tell the sounds of -- the</p> <p>3 differential between gunshots and distracts. They</p> <p>4 sound similar, but I can tell when there's gunfire</p> <p>5 going on inside of a structure. I've made entries,</p> <p>6 several entries where I've been involved, and I've</p> <p>7 been next to guys that have shot. I know the</p> <p>8 distinction between it. Once I heard the gunfire</p> <p>9 going, I made sure -- I put myself in a position of</p> <p>10 concealment because I was -- I was armed, but I</p> <p>11 didn't display my weapon at the time. My job was to</p> <p>12 rake out the window. So, yes, I don't know if he</p> <p>13 was shooting at me or not, sir. I know he shot at</p> <p>14 Officer Rothenburg.</p> <p>15 Q. Did you observe Officer Rothenburg shoot</p> <p>16 at Mr. Williams?</p> <p>17 A. I did. When I -- when he took the first</p> <p>18 two rounds in the shield and stepped back, that's</p> <p>19 when I actually drew out my weapon. And then that's</p> <p>20 when Roth closed the distance, covered that window,</p> <p>21 and then engaged.</p> <p>22 Q. How many times did you observe Officer</p> <p>23 Rothenburg shoot at Mr. Williams?</p> <p>24 A. I -- at least two rounds. I believe at</p> <p>25 least two rounds.</p>
<p style="text-align: right;">159</p> <p>1 sounds that sound like somebody is shooting at him</p> <p>2 before he does anything to deploy his weapon.</p> <p>3 MR. ANDERSON: Objection, form.</p> <p>4 THE WITNESS: I don't know what his</p> <p>5 thought process would be. I mean, I could</p> <p>6 understand, but I don't know.</p> <p>7 BY MR. BREEDEN:</p> <p>8 Q. You could understand how a person could</p> <p>9 perceive those noises, just like Officer Rothenburg</p> <p>10 did, and think they were gunshots?</p> <p>11 A. I agree with you, yes. I could see how he</p> <p>12 could perceive that.</p> <p>13 Q. And, in fact, the window had just broken.</p> <p>14 It might seem like somebody was firing through the</p> <p>15 window at him, right?</p> <p>16 A. I could -- I could agree to that.</p> <p>17 Q. Okay. Were you shot?</p> <p>18 A. No. I don't know what had happened. I</p> <p>19 don't know, but some of the stucco had come off the</p> <p>20 wall at a high velocity and struck me in the leg.</p> <p>21 So I didn't know if I was hit or not. But I wasn't</p> <p>22 going to stop until I knew my guys were good.</p> <p>23 Q. As far as you know, did Mr. Williams</p> <p>24 attempt to shoot at you directly?</p> <p>25 A. I don't know, sir. Once I -- I</p>	<p style="text-align: right;">161</p> <p>1 Q. Did you personally see any other officer</p> <p>2 shoot at Mr. Williams?</p> <p>3 A. No, sir, I did not.</p> <p>4 Q. Okay. Did you personally see Mr. Williams</p> <p>5 fire any shots?</p> <p>6 A. Did I personally see Mr. Williams fire</p> <p>7 shots? No, I did not.</p> <p>8 Q. Okay. Not including the stun stick, did</p> <p>9 you ever discharge your firearm or any other device?</p> <p>10 A. No. I never discharged my firearm, sir.</p> <p>11 Q. When the shooting initially occurred, you</p> <p>12 had never heard of Mr. Williams before, had you?</p> <p>13 A. No. He was never discussed.</p> <p>14 Q. Did you assume that the person who had</p> <p>15 been shot was one of the suspects?</p> <p>16 A. Did I -- I assume that -- obviously we</p> <p>17 encountered someone that was armed and putting us in</p> <p>18 a deadly force situation. I don't know who it was.</p> <p>19 I didn't -- there was obviously someone in there</p> <p>20 that was shooting at us.</p> <p>21 Q. When did you first find out that it was</p> <p>22 somebody other than either one of the suspects?</p> <p>23 A. Honestly, probably not until -- I don't</p> <p>24 know. I couldn't tell you, sir. I know it wasn't</p> <p>25 within several -- it wasn't within that day. It</p>

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<p style="text-align: right;">162</p> <p>1 wasn't -- I don't recall.</p> <p>2 Q. Who told you? How did you find out about</p> <p>3 who it was?</p> <p>4 A. I believe it was during my CIRT interview.</p> <p>5 And that was it.</p> <p>6 Q. The CIRT interview was approximately a</p> <p>7 month after the shooting?</p> <p>8 A. Something like that, yes, sir.</p> <p>9 Q. Okay. Well, had you read newspaper</p> <p>10 articles or --</p> <p>11 A. No, sir.</p> <p>12 Q. -- anything about it?</p> <p>13 A. I don't watch the news.</p> <p>14 Q. After the event, as it turned out, neither</p> <p>15 suspect, either Corvel Fisher or Wattsel Rembert</p> <p>16 were actually inside the apartment, correct?</p> <p>17 A. No, sir.</p> <p>18 Q. Meaning that that statement is correct?</p> <p>19 A. Your statement is correct, sir, they were</p> <p>20 not located inside the apartment.</p> <p>21 Q. And was any of the property described in</p> <p>22 the search warrant ever found?</p> <p>23 A. I do not know, sir.</p> <p>24 Q. Okay. As far as you knew, was there any</p> <p>25 warrant to arrest Mr. Williams outstanding?</p>	<p style="text-align: right;">164</p> <p>1 shot.</p> <p>2 Q. Okay. At some point, I believe it's in</p> <p>3 your CIRT interview, you indicate that you heard an</p> <p>4 officer yelling "tactical". Do you recall that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And so, when did you hear an officer</p> <p>7 yelling tactical?</p> <p>8 A. When the shots were being fired.</p> <p>9 Q. And do you recognize whose voice that was?</p> <p>10 A. Jake Werner.</p> <p>11 Q. And what response, if any, was there to</p> <p>12 the tactical call?</p> <p>13 A. So, I'm not going to put my head -- I</p> <p>14 mean, I'm obviously not going to start looking into</p> <p>15 the window. I heard it called. I heard everyone</p> <p>16 back up. I heard everyone ask Alex if he was okay.</p> <p>17 I heard suspect down. So I knew that the threat</p> <p>18 was -- there was no longer a threat. I heard one of</p> <p>19 the guys say, hey, Levi, what do you need? And he</p> <p>20 goes, I need this area cleared, which was the</p> <p>21 kitchen. And then we immediately -- I -- they must</p> <p>22 have already had taken Officer Kubla out. Because I</p> <p>23 didn't even know that we had an officer shot.</p> <p>24 Q. And we do hear that prominently, somebody</p> <p>25 yells, Levi, what do you need? Who is that yelling,</p>
<p style="text-align: right;">163</p> <p>1 A. No, sir, I do not know.</p> <p>2 Q. Again, after the shooting, was there any</p> <p>3 evidence of any ongoing criminal activity in the</p> <p>4 apartment that was taking place before the SWAT</p> <p>5 entry?</p> <p>6 A. No, sir.</p> <p>7 Q. It was just two guys in the apartment</p> <p>8 sleeping, right?</p> <p>9 A. From what I know, yes.</p> <p>10 Q. Did you ever see Mr. Williams move after</p> <p>11 he had been shot?</p> <p>12 A. Did I ever see him move?</p> <p>13 Q. Yes.</p> <p>14 A. No, I did not see him move.</p> <p>15 Q. Did you ever hear Mr. Williams make any</p> <p>16 sounds, like, words or moaning from him after he was</p> <p>17 shot?</p> <p>18 A. Sounds from Mr. Williams?</p> <p>19 Q. Yes.</p> <p>20 A. No, sir, I did not.</p> <p>21 Q. Okay. We see a time -- I don't know if</p> <p>22 you're physically present or not when he's moved</p> <p>23 from the couch to the floor. Were you there to</p> <p>24 observe that?</p> <p>25 A. No. I was checking on my guy that was</p>	<p style="text-align: right;">165</p> <p>1 and who is Levi?</p> <p>2 A. Levi was on the Shok Lock. He was also a</p> <p>3 senior ATL, Assistant Team Leader. But he was just</p> <p>4 not the ATL for that operation.</p> <p>5 Q. And do you know who was yelling at him,</p> <p>6 what do you need?</p> <p>7 A. I do not know who that was. If you played</p> <p>8 the -- I could -- I know everyone's voice, but I</p> <p>9 don't know.</p> <p>10 Q. What, if anything, did you do differently</p> <p>11 when you heard tactical called?</p> <p>12 A. When I heard tactical, I just basically</p> <p>13 backed -- I knew that something had happened. I</p> <p>14 knew they got into a shooting at that point. And</p> <p>15 they're going to slow things down. I'm going to</p> <p>16 stay calm. That's when I knew Roth had gotten hit.</p> <p>17 Jonathan and his partner had came up, took our</p> <p>18 spots. And I wanted to check on Roth, to make sure</p> <p>19 he wasn't hit.</p> <p>20 Q. Okay. So, you were there to serve a copy</p> <p>21 of the search warrant, or the SWAT team was. Do you</p> <p>22 know who had the physical copy of the warrant?</p> <p>23 A. So, usually, you know, the detectives have</p> <p>24 the hard copy that was signed. They'll always</p> <p>25 provide us a copy for our after action report. So I</p>

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<p style="text-align: right;">166</p> <p>1 would assume at the time, either Detective Grimm</p> <p>2 had it or his sergeant or -- I know that one of our</p> <p>3 sergeants might have had a copy of it. I don't</p> <p>4 know, sir.</p> <p>5 Q. Do you know if it was left at the property</p> <p>6 after everything was cleared?</p> <p>7 A. That's a detective thing. Once it became</p> <p>8 a crime scene at that point, you know, that ID techs</p> <p>9 came out, that was a very large, dynamic scene. So</p> <p>10 I'd assume that it was left. But I don't know.</p> <p>11 Q. We know now that at the time you broke out</p> <p>12 the window, Mr. Williams was sleeping on a couch in</p> <p>13 the same room, right?</p> <p>14 A. Yes.</p> <p>15 Q. And do you agree with me that it would be</p> <p>16 logical for a person, if they're asleep and they</p> <p>17 hear the sound of a window breaking near them, that</p> <p>18 they would wake up and look at the window?</p> <p>19 A. I would agree to that, yes.</p> <p>20 Q. And so that would be about the same time</p> <p>21 that the large flash from the distract ignited as</p> <p>22 well, right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And would you agree with me that that</p> <p>25 would affect Mr. Williams' vision?</p>	<p style="text-align: right;">168</p> <p>1 Q. When?</p> <p>2 A. Yesterday.</p> <p>3 Q. Prior to yesterday, had you ever reviewed</p> <p>4 any portion of the CIRT report?</p> <p>5 A. No, sir.</p> <p>6 Q. Did you review it yesterday?</p> <p>7 A. Yes. I looked -- I read through it a</p> <p>8 little bit.</p> <p>9 Q. Was there anything that surprised you</p> <p>10 about it?</p> <p>11 A. A little bit.</p> <p>12 Q. What surprised you?</p> <p>13 A. That there was, you know, talking about</p> <p>14 the -- you know, the knock and announce stuff.</p> <p>15 Q. So even after the CIRT report came out, it</p> <p>16 wasn't provided to you to read, and nobody spoke to</p> <p>17 you or provided you any sort of retraining regarding</p> <p>18 the issues that the CIRT report found?</p> <p>19 A. So, every time that we have an OIS or a</p> <p>20 major incident or something, we'll always have a</p> <p>21 debrief, a large debrief. Especially after -- so if</p> <p>22 you know, when we have an OIS, a lot of those</p> <p>23 conversations and stuff can't be talked about</p> <p>24 because they've been admonished while it's under</p> <p>25 investigation. So once that was done, they did do</p>
<p style="text-align: right;">167</p> <p>1 A. Yes.</p> <p>2 Q. In fact, that's the very purpose of that</p> <p>3 bright flash, isn't it?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And in your CIRT interview, I believe it</p> <p>6 was, you refer to that as a blinding flash, right?</p> <p>7 A. It's a very high candela, intense flash,</p> <p>8 yes.</p> <p>9 Q. And you've also agreed with me in this</p> <p>10 deposition that the sounds from the stun stick</p> <p>11 distract, as well as the nine banger, those can be</p> <p>12 mistaken for gunfire?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And would you agree with me that the stun</p> <p>15 stick and the -- the stun stick distract and the</p> <p>16 nine banger, those could also impair a person's</p> <p>17 hearing?</p> <p>18 A. I -- yes, depending on how close the</p> <p>19 proximity is, yes.</p> <p>20 Q. You're aware that there was a CIRT</p> <p>21 investigation into this event, right?</p> <p>22 A. Yes.</p> <p>23 Q. Are you aware of what the conclusions or</p> <p>24 findings were?</p> <p>25 A. I was made aware of them. Yes.</p>	<p style="text-align: right;">169</p> <p>1 a -- like, a larger debrief of it and kind of talked</p> <p>2 about some of the findings.</p> <p>3 I was out of town. But I was made aware</p> <p>4 of some of the things that they had discussed. But</p> <p>5 like I said, that was two years ago. And then</p> <p>6 Mr. Anderson kind of provided me a copy of some of</p> <p>7 the highlighted things. I can't recall every one of</p> <p>8 them off the top of my head.</p> <p>9 Q. So there was a debrief at some point, but</p> <p>10 you were out of town and did not attend.</p> <p>11 A. Yeah, I wasn't there.</p> <p>12 Q. Do you know who conducted the debrief?</p> <p>13 A. Usually what happens on those larger</p> <p>14 events or OISs, it will be the entire section. And</p> <p>15 usually, the sergeant and the ATL will go through</p> <p>16 everything. I know that Lieutenant O'Daniel was</p> <p>17 admonished in that, so I -- you know, she wasn't</p> <p>18 allowed to speak on a lot of that stuff until the</p> <p>19 full CIRT investigation was over.</p> <p>20 Q. But who actually conducted the debrief?</p> <p>21 A. It would have been Jake or Sergeant Finley</p> <p>22 or Sergeant Backman, one of those three. It's</p> <p>23 usually those three. And then it would be taken</p> <p>24 around to anybody if they have questions or</p> <p>25 concerns.</p>

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<p style="text-align: right;">170</p> <p>1 Q. At this point, maybe we should take a</p> <p>2 five-minute break or so for everybody. We'll come</p> <p>3 back and I might have another hour of questioning.</p> <p>4 A. Okay.</p> <p>5 THE VIDEOGRAPHER: We are going off record</p> <p>6 at 12:19 p.m.</p> <p>7 (Off record.)</p> <p>8 THE VIDEOGRAPHER: We are back on record</p> <p>9 at 12:25 p.m.</p> <p>10 BY MR. BREEDEN:</p> <p>11 Q. Officer Bertuccini, we took a short break.</p> <p>12 We're back on the record now and you're under oath.</p> <p>13 We were speaking a little bit about the</p> <p>14 CIRT report that was created over this incident.</p> <p>15 And according to the CIRT report that was prepared</p> <p>16 by Metro, they stated this. And, you know, they're</p> <p>17 talking about announcements made. Not by you, but</p> <p>18 by Sergeant Backman at the front door. But the CIRT</p> <p>19 report states, quote, six seconds after starting his</p> <p>20 announcement, Officer Bertuccini inserted the stun</p> <p>21 stick through the western facing window, end quote.</p> <p>22 Now, I don't know if it was three seconds</p> <p>23 or six seconds or whatever it was. But do you have</p> <p>24 any reason to disagree with Metro's conclusion that</p> <p>25 it was no more than six seconds?</p>	<p style="text-align: right;">172</p> <p>1 never watched the body camera of any of the</p> <p>2 shooters. So I don't know the exact position that</p> <p>3 he was in when he decided to fire upon officers.</p> <p>4 Q. Well, let's talk about that.</p> <p>5 Mr. Williams drew a handgun. And he fired</p> <p>6 it on a group of a dozen or more police officers</p> <p>7 that were in full tactical gear, had him surrounded</p> <p>8 and outgunned. Do you agree with me that that's a</p> <p>9 pretty dangerous thing to do?</p> <p>10 A. Pretty dangerous thing of him to do, yes.</p> <p>11 Q. Him to do, yes.</p> <p>12 A. To shoot upon officers, yes.</p> <p>13 Q. Yes. It implies, don't you believe, that</p> <p>14 maybe he didn't really understand what was going on?</p> <p>15 MR. ANDERSON: Objection, form.</p> <p>16 THE WITNESS: I don't feel he didn't</p> <p>17 understand. I feel he understood exactly what was</p> <p>18 going on. They were sounding short -- search</p> <p>19 warrant numerous times. And then he was</p> <p>20 immediately -- our guys were immediately met with</p> <p>21 gunfire.</p> <p>22 BY MR. BREEDEN:</p> <p>23 Q. Okay. Do you believe, then, that</p> <p>24 Mr. Williams was simply suicidal?</p> <p>25 A. No, I do not believe he was suicidal.</p>
<p style="text-align: right;">171</p> <p>1 A. Yeah, I'm not disagreeing with it.</p> <p>2 Q. Okay. Do you believe that six seconds was</p> <p>3 a reasonable amount of time for Mr. Williams to</p> <p>4 arise from a sleeping state, hear and comprehend</p> <p>5 officers, go to the front door, ascertain that they</p> <p>6 are, in fact, officers and that they have a search</p> <p>7 warrant, and allow them entry into the apartment?</p> <p>8 Do you think that's a reasonable amount of time for</p> <p>9 that?</p> <p>10 A. I do, because we were breaking a window.</p> <p>11 Obviously he's going to know, and they -- the plan</p> <p>12 was that they wouldn't start breaching the door</p> <p>13 until after the stun was initiated, which allowed</p> <p>14 more time.</p> <p>15 Q. Okay. In fact, and you can probably see</p> <p>16 it in the video, the amount of time wasn't even</p> <p>17 sufficient for him to stand up, was it?</p> <p>18 MR. ANDERSON: Objection, form.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q. He was -- when he was shot, he was still</p> <p>23 laying down, wasn't he?</p> <p>24 A. I don't know the exact position he was in.</p> <p>25 When he was -- I -- I'll be honest with you, I've</p>	<p style="text-align: right;">173</p> <p>1 Q. Okay.</p> <p>2 A. Because the gun was pointed to our --</p> <p>3 towards our officers.</p> <p>4 Q. If he -- well, but -- but what I'm saying</p> <p>5 is, he's -- sometimes the phrase is suicide by cop.</p> <p>6 I mean, anybody who fully understands the situation,</p> <p>7 would not fire on officers under those conditions</p> <p>8 unless they expected to be shot back, right?</p> <p>9 MR. ANDERSON: Objection, form.</p> <p>10 THE WITNESS: I don't know if he was</p> <p>11 suicide by a cop. I don't know. I do not know.</p> <p>12 BY MR. BREEDEN:</p> <p>13 Q. Okay. And you are not Mr. Williams, so</p> <p>14 you can't say for certain what he saw, can you?</p> <p>15 A. No.</p> <p>16 Q. You can say what you testified earlier,</p> <p>17 that he was hit with a blinding flash to his vision</p> <p>18 around this time from the stun stick, right?</p> <p>19 A. I know that I said that I -- the stun</p> <p>20 stick delivers a blinding flash. I don't know if he</p> <p>21 was directly looking at it, I don't know.</p> <p>22 Q. Okay. And we discussed that even though</p> <p>23 there are announcements going on, there are also</p> <p>24 distraction -- noise devices that are designed to</p> <p>25 confuse and disorient him, right?</p>

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<p style="text-align: right;">174</p> <p>1 A. The additional ones, the nine banger?</p> <p>2 Yes, they were being -- they were being deployed on</p> <p>3 the exterior, yes. That shouldn't have -- shouldn't</p> <p>4 have inhibited his hearing to hear that -- the</p> <p>5 police and the search warrant.</p> <p>6 Q. So why do you think a young man of</p> <p>7 approximately 20 years old would choose to fire on</p> <p>8 officers? I mean, this seems like it's suicidal, it</p> <p>9 seems very foolish and very dangerous, unless he did</p> <p>10 not fully comprehend what was going on.</p> <p>11 A. I don't know what his mindset was, sir. I</p> <p>12 don't know.</p> <p>13 Q. But you think -- and I'm not going to do</p> <p>14 this. I'm not saying this to make it personal. But</p> <p>15 if I went to your home this evening and I started</p> <p>16 knocking on your door when you were dead asleep, you</p> <p>17 think you could make it to your front door and have</p> <p>18 a discussion with me in a period of six seconds from</p> <p>19 a dead sleep?</p> <p>20 A. From a dead sleep, I don't know. It would</p> <p>21 depend. My -- my front door and my bedroom door are</p> <p>22 very close together.</p> <p>23 Q. Maybe not.</p> <p>24 A. Maybe not. I don't know.</p> <p>25 Q. Would you agree that that might be</p>	<p style="text-align: right;">176</p> <p>1 situation with officers where he fired 18 rounds and</p> <p>2 struck an officer that almost lost his life. But I</p> <p>3 do feel for his mother, yes.</p> <p>4 Q. And do you think he did that fully</p> <p>5 understanding that there were officers there with a</p> <p>6 legal search warrant?</p> <p>7 A. I do not know, sir. I don't know what his</p> <p>8 mindset was.</p> <p>9 Q. Wouldn't you think it would be reasonable</p> <p>10 for him, after hearing your stun stick distraction</p> <p>11 device and the nine banger going off, that he was</p> <p>12 already being fired at by someone?</p> <p>13 MR. ANDERSON: Objection, form.</p> <p>14 THE WITNESS: I do not know.</p> <p>15 BY MR. BREEDEN:</p> <p>16 Q. You would agree with me, that if a person</p> <p>17 is in their home or their apartment, and intruders</p> <p>18 come into their home, that that person is legally</p> <p>19 entitled to use lethal force to defend themselves;</p> <p>20 would you agree with that?</p> <p>21 A. I would agree with that, yes, sir.</p> <p>22 Q. Okay. Are there any changes to the IAP or</p> <p>23 the way the SWAT operation was performed, that you</p> <p>24 think could have been made to make it safer for</p> <p>25 officers?</p>
<p style="text-align: right;">175</p> <p>1 difficult?</p> <p>2 A. It could be difficult, yes, sir.</p> <p>3 Q. I want to talk a little bit about the</p> <p>4 aftermath of the shooting.</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did you see anyone provide any type of</p> <p>7 medical aid to Mr. Williams at all?</p> <p>8 A. No. I knew that they were getting medical</p> <p>9 aid to him. I know that they were -- we had medical</p> <p>10 aid, also, to Officer Kubla. So I don't know how</p> <p>11 long it took, sir.</p> <p>12 Q. Looking back and knowing the end result,</p> <p>13 which was that a young man was fatally shot and</p> <p>14 killed when he really wasn't even under</p> <p>15 investigation for the crime that was being</p> <p>16 investigated, and really wasn't even expected to be</p> <p>17 there, is there anything you would change about how</p> <p>18 this SWAT operation was done?</p> <p>19 MR. ANDERSON: Objection, form.</p> <p>20 THE WITNESS: No, sir.</p> <p>21 BY MR. BREEDEN:</p> <p>22 Q. Do you have -- any remorse or does it</p> <p>23 bother you that Mr. Williams was shot and killed?</p> <p>24 A. It's unfortunate that a mother lost her</p> <p>25 son. But this gentleman decided to put himself in a</p>	<p style="text-align: right;">177</p> <p>1 A. We have -- like I said, if we -- I like</p> <p>2 the fact that we have added the surveillance of how</p> <p>3 long, last time we've seen them. I do like making</p> <p>4 sure that, you know, we have done -- all detectives</p> <p>5 have done their due diligence utilizing -- whether</p> <p>6 it's covert, additional units for extra</p> <p>7 surveillance, takeaways, stuff like that. So those</p> <p>8 are things that we have implemented to make sure</p> <p>9 that the detectives are doing their due diligence.</p> <p>10 To make sure that they have a strong investigation</p> <p>11 for the individuals that we're going after, yes.</p> <p>12 Q. And would you agree that the</p> <p>13 reconnaissance could have been better on this</p> <p>14 apartment?</p> <p>15 A. I will -- I will -- I will say that the</p> <p>16 door, the missing of the brass wrap, was -- was very</p> <p>17 important. And that needed to be a re-look, a</p> <p>18 re-pass on that, yes. And we've -- and we discussed</p> <p>19 that.</p> <p>20 Q. And is there anything -- just again</p> <p>21 hypothetically, that you can think of that you could</p> <p>22 change to make that SWAT operation safer for the</p> <p>23 occupants inside, such as Mr. Williams?</p> <p>24 A. No, not that I know of.</p> <p>25 Q. Were you disciplined by Metro in any way</p>

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<p style="text-align: right;">178</p> <p>1 over this incident?</p> <p>2 A. No, sir, I was not.</p> <p>3 Q. Were you given any retraining on any</p> <p>4 issue, for example, CET entry, as a result of this</p> <p>5 incident?</p> <p>6 A. No, sir, no.</p> <p>7 Q. Were you aware that the CIRT team found</p> <p>8 that CET entries were only constitutionally</p> <p>9 consistent with no-knock warrants, and were</p> <p>10 inconsistent with circumstances where knock and</p> <p>11 announced had to be used?</p> <p>12 A. No.</p> <p>13 Q. Today during the deposition is the first</p> <p>14 time you're aware of that?</p> <p>15 A. It was -- reading their -- going through</p> <p>16 their -- whatever their conclusion was, that was the</p> <p>17 first time I read that.</p> <p>18 Q. That was yesterday.</p> <p>19 A. Yeah.</p> <p>20 Q. So even though CIRT concluded that well</p> <p>21 over a year ago, you were not retrained or advised</p> <p>22 of that conclusion?</p> <p>23 A. We've been advised of it. I mean, we</p> <p>24 haven't done a controlled entry since -- since that</p> <p>25 happened. Actually, we did one shortly after</p>	<p style="text-align: right;">180</p> <p>1 interview.</p> <p>2 Q. Who admonished you?</p> <p>3 A. I couldn't -- whoever did the interview.</p> <p>4 Maybe it was -- I think his last name is Roth,</p> <p>5 Jeremy Roth. I can't remember.</p> <p>6 Q. Was it a union representative --</p> <p>7 A. No.</p> <p>8 Q. -- or it was one of the --</p> <p>9 A. One of the investigators.</p> <p>10 Q. I don't want to talk over you. Frustrates</p> <p>11 the court reporter.</p> <p>12 A. I'm sorry.</p> <p>13 Q. So, I've reviewed documents that Las Vegas</p> <p>14 Metropolitan Police Department has produced as part</p> <p>15 of this litigation. They have produced a brief</p> <p>16 statement that you gave at approximately 8:57 a.m.</p> <p>17 on the morning of the shooting. Do you recall</p> <p>18 giving that statement?</p> <p>19 A. That would have been my FIT statement,</p> <p>20 yeah.</p> <p>21 Q. Your FIT statement. And do you recall who</p> <p>22 took that statement from you?</p> <p>23 A. I don't know his name. If he was sitting</p> <p>24 here, I know what his face is. I don't know his</p> <p>25 name off the top of my head.</p>
<p style="text-align: right;">179</p> <p>1 Officer Kubla's incident. But we have not done a</p> <p>2 controlled entry since then.</p> <p>3 Now there is a higher criteria for it.</p> <p>4 And usually we're only going to make a CET now if</p> <p>5 it's going to be a no-knock.</p> <p>6 Q. And these changes are because of</p> <p>7 Mr. Williams' shooting, aren't they?</p> <p>8 A. I think it's that, along with other things</p> <p>9 that have happened around the nation with search</p> <p>10 warrants and tactical teams.</p> <p>11 Q. Have you ever asserted your Fifth</p> <p>12 Amendment right to remain silent when asked about</p> <p>13 this incident?</p> <p>14 A. No.</p> <p>15 Q. Have you ever asserted any rights under</p> <p>16 your Collective Bargaining Agreement with the Police</p> <p>17 Protective Association to refuse to speak to anyone</p> <p>18 regarding this incident?</p> <p>19 A. The only time was when I was admonished,</p> <p>20 you know, we weren't allowed to talk about it. But</p> <p>21 that was it.</p> <p>22 Q. So when was that?</p> <p>23 A. That was the day -- I think I was</p> <p>24 admonished shortly after, about a week after I got a</p> <p>25 phone call just not to talk about it until we do our</p>	<p style="text-align: right;">181</p> <p>1 Q. Okay. And then you gave a CIRT interview</p> <p>2 on February 2nd of 2022; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. I realize you may not remember the</p> <p>5 exact --</p> <p>6 A. I don't remember the dates, but if you</p> <p>7 have it, I trust you, yes.</p> <p>8 Q. Okay. So you gave a FIT statement, and</p> <p>9 then was it after the FIT statement that someone</p> <p>10 advised you not to make any additional statements</p> <p>11 about the incident?</p> <p>12 A. Yeah. We usually get admonished by CIRT</p> <p>13 to make sure that we don't discuss any other -- you</p> <p>14 know, with anyone else involving the incident until</p> <p>15 after the entire investigation has been done.</p> <p>16 Q. And in the CIRT interview, they -- they</p> <p>17 actually say that your interview at that time on</p> <p>18 February 2nd, 2022 is being compelled. Had you</p> <p>19 refused to give a statement at any time prior to</p> <p>20 February 2nd?</p> <p>21 A. I've never refused to give a statement.</p> <p>22 Q. Okay. Other than the FIT statement and</p> <p>23 the CIRT statement, have you given any other</p> <p>24 statement verbally or in writing about what</p> <p>25 happened?</p>

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<p style="text-align: right;">182</p> <p>1 A. No, sir.</p> <p>2 Q. I want to ask you briefly about Officer</p> <p>3 Kubla. Is he still employed with Las Vegas</p> <p>4 Metropolitan Police Department?</p> <p>5 A. Yes, sir, he is.</p> <p>6 Q. Do you still work with him?</p> <p>7 A. Yes, sir, I do.</p> <p>8 Q. And is he still assigned to SWAT?</p> <p>9 A. He is.</p> <p>10 Q. Okay. So whatever his injuries are, he is</p> <p>11 not considered so disabled that he cannot still be</p> <p>12 on SWAT.</p> <p>13 A. No. But he -- due to his nerve damage in</p> <p>14 his right hand he had to train himself to be a</p> <p>15 left-handed shooter for his handgun because of the</p> <p>16 dexterity -- finger dexterity in his right hand.</p> <p>17 Q. Okay. So let me ask you, and I realize,</p> <p>18 look, the real source on this issue is going to be</p> <p>19 Officer Kubla. But as far as you are aware, what</p> <p>20 are the injuries that Officer Kubla sustained?</p> <p>21 A. Like I said, I haven't -- you know, I</p> <p>22 don't know his entire medical, you know, printout or</p> <p>23 anything. But he had nerve damage in his hand, arm,</p> <p>24 and hip. Where he was shot. And if that's</p> <p>25 incorrect, I'm sorry, but those are the -- what I</p>	<p style="text-align: right;">184</p> <p>1 A. Yes.</p> <p>2 Q. So you would describe yourself close with</p> <p>3 them.</p> <p>4 A. Yes.</p> <p>5 Q. You're part of the SWAT team.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. I think those are all the questions</p> <p>8 that I have.</p> <p>9 MR. ANDERSON: I have no questions.</p> <p>10 MR. BREEDEN: Mr. Anderson, do you have</p> <p>11 any?</p> <p>12 MR. ANDERSON: No questions.</p> <p>13 MR. BREEDEN: At this time we will go off</p> <p>14 the record. But there are a couple of things I</p> <p>15 think the court reporter usually asks us to put on</p> <p>16 the record.</p> <p>17 I know that I will take a copy, and I've</p> <p>18 actually ordered an expedited copy of the</p> <p>19 transcript.</p> <p>20 Mr. Anderson?</p> <p>21 MR. ANDERSON: I'll take a copy.</p> <p>22 THE REPORTER: Do you need it expedited?</p> <p>23 MR. ANDERSON: No, I don't need it</p> <p>24 expedited. I don't need the video right at this</p> <p>25 point.</p>
<p style="text-align: right;">183</p> <p>1 know.</p> <p>2 Q. I'm just asking as far as you have</p> <p>3 observed --</p> <p>4 A. Yeah --</p> <p>5 Q. -- and what you know.</p> <p>6 A. That's it.</p> <p>7 Q. Okay. Are any of the defendants in this</p> <p>8 case -- I mean, you work with people and you've</p> <p>9 probably worked for many of them for years; is that</p> <p>10 right?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And there's kind of a difference between</p> <p>13 somebody who's a personal friend of yours versus a</p> <p>14 work acquaintance.</p> <p>15 Are there any of the other officers who</p> <p>16 are involved that you consider them to be personal</p> <p>17 friends of yours, just beyond somebody that you work</p> <p>18 with?</p> <p>19 A. They're all personal friends. We're</p> <p>20 brothers.</p> <p>21 Q. So have you been to, like -- the other</p> <p>22 defendants in this case, have you been to their</p> <p>23 home?</p> <p>24 A. All of them.</p> <p>25 Q. You've met their families?</p>	<p style="text-align: right;">185</p> <p>1 BY MR. BREEDEN:</p> <p>2 Q. And Officer Bertuccini, are you going to</p> <p>3 exercise your right to review the transcript and</p> <p>4 make changes, or do you want to waive that right?</p> <p>5 MR. ANDERSON: So, you have the right to</p> <p>6 read it and then make sure it's all accurate.</p> <p>7 Because it's videoed, I think you're fine. But if</p> <p>8 you want to read it to make sure it's accurate, that</p> <p>9 she took everything down right, you can do that.</p> <p>10 A. I trust it. I'm good.</p> <p>11 MR. ANDERSON: We'll waive.</p> <p>12 MR. BREEDEN: So he'll waive. And so with</p> <p>13 that, we'll go off the record.</p> <p>14 THE WITNESS: Do you want these back,</p> <p>15 ma'am?</p> <p>16 MR. ANDERSON: Yes, she needs those back.</p> <p>17 Anything with a sticker on it, make sure she gets.</p> <p>18 Those are hers.</p> <p>19 THE VIDEOGRAPHER: One moment.</p> <p>20 This concludes the video-recorded</p> <p>21 deposition of James Bertuccini taken on July 12th,</p> <p>22 2024. We're going off record, and the time is</p> <p>23 12:43 p.m.</p> <p>24 (Proceedings concluded at 12:43 p.m.)</p> <p>25</p>

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1 CERTIFICATE OF DEPONENT.

2 PAGE LINE CHANGE

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* * * * *

I, James Bertuccini, deponent herein, do hereby
 certify and declare under penalty of perjury the
 within and foregoing transcription to be my
 deposition in said action; that I have read,
 corrected and do hereby affix my signature to said
 deposition.

23

James Bertuccini

24

Witness

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)

) ss

3 COUNTY OF CLARK)

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I, Tracy A. Manning, a duly certified court
 reporter licensed in and for the State of Nevada, do
 hereby certify:

That I reported the taking of the deposition of
 the witness, James Bertuccini, at the time and place
 aforesaid;

That prior to being examined, the witness was
 by me duly sworn to testify to the truth, the whole
 truth, and nothing but the truth;

That I thereafter transcribed my shorthand
 notes into typewriting and that the typewritten
 transcript of said deposition is a complete, true
 and accurate record of testimony provided by the
 witness at said time to the best of my ability.

I further certify (1) that I am not a relative,
 employee or independent contractor of counsel of any
 of the parties; nor a relative, employee or
 independent contractor of the parties involved in
 said action; nor a person financially interested in
 the action; nor do I have any other relationship
 with any of the parties or with counsel of any of
 the parties involved in the action that may
 reasonably cause my impartiality to be questioned;
 and (2) that transcript review pursuant to
 NRCP 30(e) was waived.

IN WITNESS WHEREOF, I have hereunto set my hand
 in the County of Clark, State of Nevada, this 18th
 day of July 2024.

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Tracy A. Manning, CCR 785